Owner-Documented Foreign Financial Institution (ODFFI)

Requirements and potential options

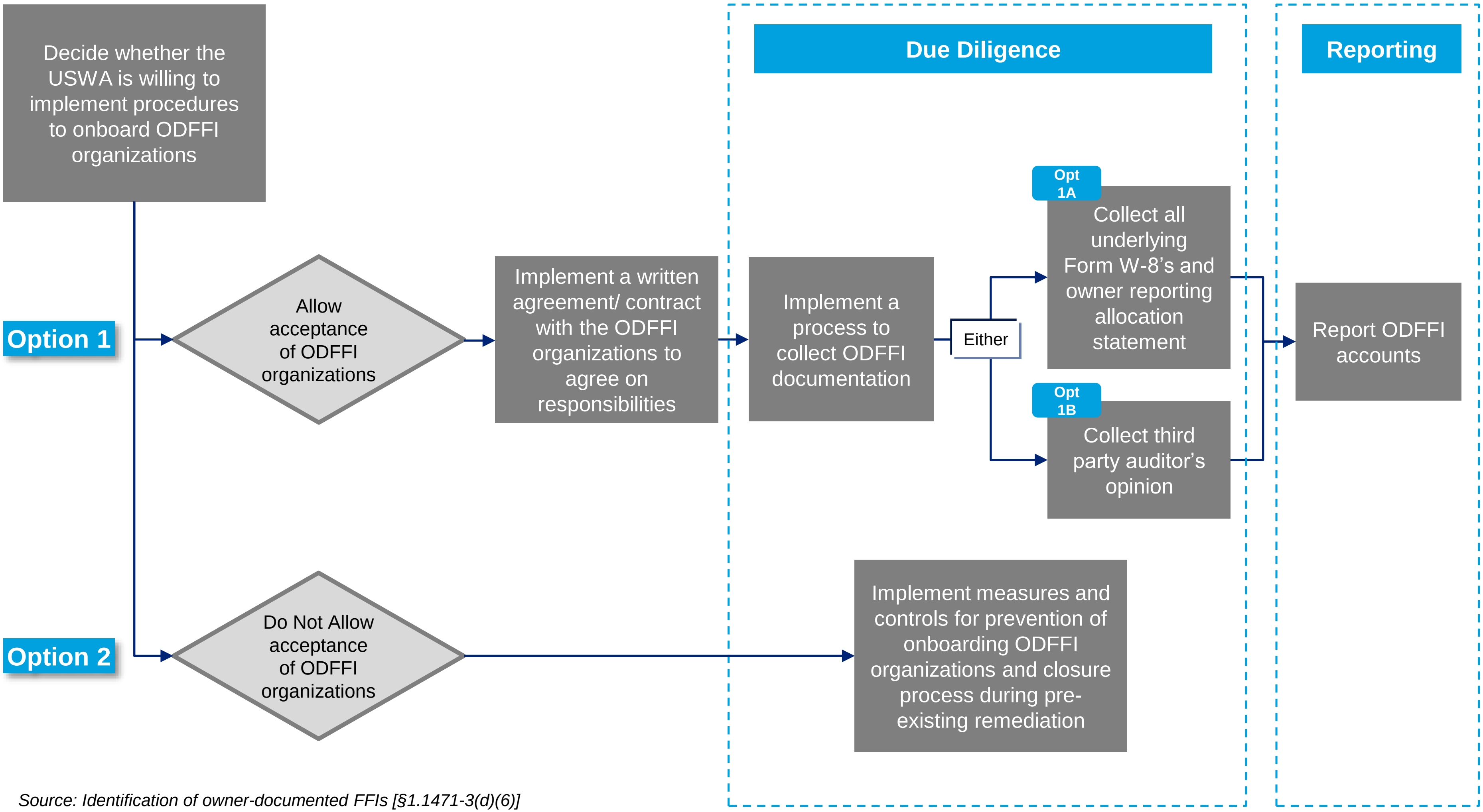
Overview of ODFFI Options for USWA's

Summary of the Options	A US Withholding Agent (USWA) must decide whether they are willing to implement procedures to onboard ODFFI organizations. **Option 1:** If the USWA decides to take on the additional responsibility and allow onboarding of ODFFI organizations, then the USWA will need to: a) Implement a written agreement/ contract with the ODFFI organizations to agree on responsibilities. b) Implement processes for ODFFI documentation collection, including the type of acceptable documentation. i. The documentation collection may be in the form of either 1) Third party auditor's opinion, or 2) All underlying Form W-8's and owner reporting allocation statement (Note: Consider charging an extra fee for the responsibility and risk taken with the ODFFI organizations.) **Option 2:** If the USWA decides to not take on the additional responsibility of ODFFI organizations, then the USWA will need to implement measures and controls for prevention of onboarding ODFFI organizations, and closure process during pre-existing remediation.

USWA Options

Option 1 vs. Option 2

ODFFI Decision Tree



Source: Identification of owner-documented FFIs [§1.1471-3(d)(6)]

Opt 1: Allow acceptance of ODFFI organizations

Due Diligence - Option 1A

Opt 1A

Collect all underlying Form W-8's and owner reporting allocation statement

Vs. Opt 1B

USWAs may treat a payee as an owner-documented FFI if all requirements are met, and valid documentation is collected.

No.	Requirement
1*	The withholding agent has a withholding certificate that identifies the payee as an owner-documented FFI that is not acting as an intermediary.
2	The withholding agent is a US financial institution, participating FFI, or reporting Model 1 FFI that agrees pursuant to act as a designated withholding agent with respect to the payee.
3*	The payee submits to the withholding agent an FFI owner reporting statement that addresses the requirements.
4*	The payee submits to the withholding agent valid documentation meeting the requirements for owners and debt holders of payee, with respect to each person identified on the FFI owner reporting statement.
5	The withholding agent does not know or have reason to know that the payee (or any other FFI that is an owner of the payee and that the designated withholding agent is treating as an owner-documented FFI) maintains any financial account for a nonparticipating FFI.
6	The withholding agent does not know or have reason to know that the payee is a member of an expanded affiliated group with any other FFI other than an FFI that is also treated as an owner-documented FFI by the withholding agent or that the FFI has any specified US persons that own an equity interest in the FFI or a debt interest (other than a debt interest that is not a financial account or that has a balance or value not exceeding $50,000) in the FFI other than those identified on the FFI owner reporting statement.

*A withholding agent may not rely upon a withholding certificate to treat a payee as an owner-documented FFI, either in whole or in part, if the withholding certificate does not contain all of the information and associated documentation required, as listed. There are also specific content requirements for the owner reporting statements.

Opt 1A Vs. Opt 1B

Collect third party auditor's opinion

Opt 1: Allow acceptance of ODFFI organizations

Due Diligence – Option 1B

USWAs have the option to collect a substitute auditor's letter instead of the FFI owner reporting statement and underlying documentation.

A payee may (in lieu of providing an FFI owner reporting statement and documentation for each owner of the FFI) provide a letter from an auditor or an attorney.

Qualified auditor/attorney requirements

- Licensed in the United States or whose firm has a location in the United States.

General auditor's letter requirements

- Signed no more than four years prior to the date of the payment
- Certifies that the organization or representative has reviewed the payee's documentation with respect to all of its owners and debt holders
- Certifies that the payee meets the ODFFI requirements

Payee requirements

- The payee must also provide the USWA an FFI owner reporting statement and a Form W-9, with any applicable waiver, for each specified US person that owns a direct or indirect interest in the payee or that holds debt interests.

Opt 1: Allow acceptance of ODFFI organizations

Reporting

Report ODFFI accounts

USWAs must report ODFFI accounts with specified US persons, in the form of an annual Form 8966 for FATCA reporting.

If a USWA makes a withholdable payment to a passive NFFE with a substantial US owner or to an owner-documented FFI with a specified US person owning certain equity or debt interests in the FFI, it must file an annual Form 8966 (“FATCA Report”) to report such substantial US owners or specified US persons. USWAs must complete Parts I, II, III, and IV of Form 8966.

With respect to each owner-documented FFI payee, a USWA must file a separate Form 8966 for each specified US person owning certain equity or debt interests in the FFI to report:

- **Name of the owner-documented FFI,**
- **Name, address, and TIN of each specified US person,**
- **Account number,**
- **Account balance or value, and**
- **Payments made with respect to the account during the calendar year.**

Pros and Cons

Option 1 vs. Option 2

Pros and Cons

	Pros			Cons		
	Process	**People**	**Technology**	**Process**	**People**	**Technology**
Opt 1: Allow acceptance of ODFFI organizations	Larger client base (and revenue), since there won't be a limitation of organizations with ODFFI chapter 4 status. Current ODFFI organizations will not need to be terminated.	Not applicable	Not applicable	Increased risk from the additional FATCA procedures performed. Additional process for contracts, due diligence, and reporting procedures will need to be implemented.	A greater number of trained resources will need to dedicated to the additional due diligence and reporting process steps.	IT systems should be updated for controls to capture valid documentation has been collected.

	Pros			Cons		
	Process	**People**	**Technology**	**Process**	**People**	**Technology**
Opt 2: Do Not Allow acceptance of ODFFI organizations	Additional process for contracts, due diligence, and reporting procedures will not need to be implemented.	Additional resources will not be necessary, allowing for time to be spent in other areas.	Changes in IT systems will not be necessary.	A share of the client base will need to be terminated, impacting profit and revenue.	Not applicable	Not applicable

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