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FATCA & CRS

Frequently Asked Questions



Table of Contents

What is FATCA?.....	4
What is CRS?.....	4
What is the impact of FATCA?	4
What is the impact of CRS?.....	4
What should I do as a Customer?.....	5
When and What will you report?	5
What should I do if I don't know how to complete the Self-Certification form or the other related forms?.....	9
What happens if I do not complete the self-certification and other required forms or do not provide the required information?	9
What is the difference between country of residence and tax residence?.....	9
What is the difference between Active NFE and Passive NFE?	10
FATCA & CRS Defined Terms.....	13



WHAT IS FATCA?

The Foreign Account Tax Compliance Act (FATCA) is a U.S. legislation enacted by US Congress to prevent offshore tax abuses by U.S. persons. FATCA rules are wide-ranging and require global financial institutions, investment entities, as well as national banks and other financial organizations to report details on their U.S. clients either directly to the IRS or through their local regulators.

WHAT IS CRS?

CRS stands for the Common Reporting Standard. It is a commonly used term for the Standard for Automatic Exchange of Financial Account Information ("AEOFAI") in Tax Matters. CRS is published by the Organization for Economic Co-operation and Development ("OECD"), and supported by G20 countries. Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters provides a legal framework for its implementation globally. The main objective of CRS is to improve tax transparency through information sharing about financial assets of tax residents of a country in other jurisdictions participating in the CRS program.

WHAT IS THE IMPACT OF FATCA?

FATCA generally requires financial institutions (both US and non-US) to classify all account holders as either US or non-US and as individuals or entities, which are further broken down as financial and non-financial. While FATCA certainly affects U.S. withholding agents and U.S. multinational companies, its greatest impact is on non-U.S. Financial Institutions as all Foreign Financial Institutions ("FFI") must comply with FATCA or be subject to a 30% withholding on their US-sourced income.

The Bank is committed to being fully FATCA compliant. We will therefore, be reviewing our existing customer base to ensure FATCA compliance. We may have to contact impacted customers for further information and documentation.

WHAT IS THE IMPACT OF CRS?

CRS is far-reaching and can impact any person, be it an individual or an entity, resident in any Participating CRS Jurisdiction. CRS imposes obligations on Financial Institutions to

- Identify Account Holders, and
- Report accounts held directly or indirectly by foreign Tax Residents.

Subsequently, local tax authorities will automatically exchange this information with the relevant Participating CRS Jurisdiction.

The Bank is committed to being fully CRS compliant. We will therefore, be reviewing our existing customer base to confirm the CRS statuses of our customers and where necessary we may have to contact our customers for further information and documentation.



WHAT SHOULD I DO AS A CUSTOMER?

For New customers, the Bank is required to obtain information on customers' tax residence(s) for tax purposes, and their tax identification number(s), where applicable

For Pre-existing customers, the Bank will conduct a review and contact all impacted customers to obtain self-certification forms in which they determine their residence for tax purposes and provide their tax identification number. Without a self-certification, the Bank is legally obliged to consider the account holder as a reportable person. As a consequence, undocumented account holder information will be reported to the relevant tax authorities.

For more information regarding FATCA, you may visit the IRS website (<https://www.irs.gov/fatca>), or contact your professional tax advisor. For more information regarding CRS, you may visit the OECD website (<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>), or contact your professional tax advisor. Please note that the Bank does not offer tax advice.

WHEN AND WHAT WILL YOU REPORT?

FATCA

As a Foreign Financial Institution, the Bank is required to disclose details of all "U.S. Reportable Accounts" held on its books.

Individual

The information that must be provided includes:

1. The name, address and U.S. Taxpayer Identification Number ("TIN") of each account holder (if the TIN is not available, the date of birth will be reported);
2. The account number;
3. The year-end account balance or value (starting 31st December 2014); and
4. Certain amounts and proceeds received in the account as required under FATCA.



Entities

For Entities holding accounts with the Bank, the disclosure is not only limited to the Entity, but will also apply to any of its U.S. owners who hold at least 10% of the equity (in the case of a Passive Non-Financial Foreign Entity ("NFFE").

The information that must be provided includes:

1. The name, address and the Employer Identification Number ("EIN") of each reportable account holder;
2. The name, address and TIN (if any) of each substantial U.S. owner of such entity (if the TIN is not available, the date of birth will be reported);
3. The account number;
4. The year-end account balance or value (starting 31st December 2014); and
5. Certain amounts and proceeds received in the account as required under FATCA.

Financial Institutions

Financial Institutions (FIs) are required to participate in the FATCA program and obtain a Global Intermediary Identification Number ("GIIN") from the IRS as a confirmation of their participation. All FIs in a country with an Inter-Governmental Agreement (IGA) is considered to be participating in the FATCA program by default.

As part of the due diligence process, FIs should obtain the participating status of Financial Institutions with whom they maintain relationships. FIs are also required to validate the GIIN of the counterparty on the web portal where IRS publishes the list of FIs that have participated in the FATCA program and obtained a GIIN.

CRS

To be compliant, a reporting Financial Institution is required to disclose details of any Account Holder who is a Reportable Person, i.e., who falls under the scope of CRS.

Individual

The information that must be provided includes:

1. The name, address, jurisdiction(s) of residence, Taxpayer Identification Number(s) ("TIN") and the date and place of birth;
2. The account number(s);



3. The year-end account balance(s) or value (starting 31st December 2016) or, if an account was closed during the year, a "0" balance for that account; and
4. In the case of any:
 - a. Custodial Account:
 - i. The total gross amount of profits, dividends or other income generated with respect to the assets held in the account, in each case paid or credited to the account during the calendar year or other appropriate reporting period; and
 - ii. The total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period.
 - b. Depository Account:
 - i. The total gross amount of profits paid or credited to the account during the calendar year or other appropriate reporting period; and
 - c. Account other than a Custodial Account or a Depository Account:
 - i. The total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the reporting FI is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

Entities

The information that must be provided includes:

1. The name, address, jurisdiction(s) of residence, and Taxpayer Identification Number(s) ("TIN") of the entity;
2. The account number(s);
3. The year-end balance or value (starting 31st December 2016) of each account or, if an account was closed during the year, a "0" balance for that account; and
4. In the case of any:
 - a. Custodial Account:
 - i. The total gross amount of profits, dividends or other income generated with respect to the assets held in the account, in each case paid or credited to the account during the calendar year or other appropriate reporting period; and
 - ii. The total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period.



- b. Depository Account:
 - i. The total gross amount of profits paid or credited to the account during the calendar year or other appropriate reporting period; and
- c. Account other than a Custodial Account or a Depository Account:
 - i. The total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

In addition to the above, in case the entity is an Account Holder and is identified as having one or more Controlling Persons who are Reportable Persons, the reporting Financial Institution is required to disclose:

1. The name, address, jurisdiction(s) of residence, and Taxpayer Identification Number(s) ("TIN") of the entity; and
2. The name, address, jurisdiction(s) of residence, Taxpayer Identification Number(s) ("TIN") and date and place of birth of each Controlling Person who is a Reportable Person.

We will be communicating with affected customers in detail on these requirements.



WHAT SHOULD I DO IF I DO NOT KNOW HOW TO COMPLETE THE SELF - CERTIFICATION FORM OR THE OTHER RELATED FORMS?

The FAQs are intended to provide a general and high level overview of tax residency for customers and should not be used solely to determine your tax residency status. Your country(s) of tax residency is based on your own personal circumstances.

If after reading the FAQs and accompanying instructions on the CRS Self Certification form you are unsure of your tax residency status please contact a professional tax advisor.

You may find more information on how to determine tax residency by visiting the OECD website on the following link [http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/ tax-residency/](http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/)

WHAT HAPPENS IF I DO NOT COMPLETE THE SELF-CERTIFICATION AND OTHER REQUIRED FORMS OR DO NOT PROVIDE THE REQUIRED INFORMATION?

The Bank may be obligated to decline any requests for new accounts, and decline any further transactions for existing clients that do not provide a completed CRS self- certification form and applicable documentation. Generally, all new clients are expected to provide the relevant CRS form to open any new financial account with the Bank. If you do not respond to the Bank's request for a self-certification and depending on the details on your record, the Bank may need to treat your account as a reportable account.

WHAT IS THE DIFFERENCE BETWEEN COUNTRY OF RESIDENCE AND TAX RESIDENCE?

The criteria of tax residency may be different from one country to another. For individuals, tax residence in a country can be based on a number of factors (one or more may apply) such as Nationality, number of days you spend in a country, place of work, accommodation and financial interests.

For example, in a large number of countries an individual's tax residency is based on the number of days that he/she has stayed in the country. An individual is said to be resident in the country if he/she is in the country for more than 182 days in any fiscal year.

Typically, an individual will be resident for tax purposes in only one country (the country in which they live). Some individuals can be tax resident in more than one country.



WHAT IS THE DIFFERENCE BETWEEN ACTIVE NFE AND PASSIVE NFE?

CRS refers to Non-Financial Entities by their acronym, NFEs. It is essentially any Entity that is not a Financial Institution. NFEs are then split into Passive NFEs or Active NFEs with additional procedures required in relation to Passive NFEs. The general rule is that a Passive NFE is an NFE that is not an Active NFE. The definition of Active NFE essentially excludes Entities that primarily receive passive income or primarily hold assets that produce passive income (such as dividends, interest, rents etc.), and includes entities that are publicly traded (or related to a publicly traded Entity), Governmental Entities, International Organisations, Central Banks, or holding NFEs of nonfinancial groups. An exception to this is an Investment Entity that is not in a Participating Jurisdiction Financial Institution, which is always treated as a Passive NFE.

The OECD definition of 'Active' and 'Passive' entity is given below.

“Active NFE”

An NFE is an Active NFE if it meets any of the criteria listed below. In summary, these criteria refer to:

- Active NFEs by reason of income and assets;
- Publicly traded NFEs;
- Governmental Entities, International Organisations, Central Banks, or their wholly owned

Entities

- Holding NFEs that are members of a nonfinancial group;
- Start-up NFEs;
- NFEs that are liquidating or emerging from bankruptcy;
- Treasury centres that are members of a nonfinancial group; or
- Non-profit NFEs.

An entity will be classified as Active NFE if it meets any of the following criteria:

- a. Less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- b. The stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;



- c. The NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- 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 Entity does not qualify for this status if the Entity 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;
- e. The NFE is not yet operating a business and has no prior operating history, (a "start-up NFE") 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 organisation 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 reorganising 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; or
- h. The NFE meets all of the following requirements (a "non-profit NFE"):
 - i. It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - ii. It is exempt from income tax in its jurisdiction of residence;
 - iii. It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - iv. The applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as

payment representing the fair market value of property which the NFE has purchased; and

- v. The applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision.

"Passive NFE"

Under the CRS a "Passive NFE" means any NFE that is not an Active NFE. An Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution is also treated as a Passive NFE for the purposes of CRS.



FATCA & CRS DEFINED TERMS

Term	Explanation
AEOI	Automatic Exchange of Information
Account Holder	The person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holders are any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.
Active NFE/NFFE	An active NFFE (non-financial foreign entity) is any entity that is a NFE/NFFE if: <ol style="list-style-type: none"> 1. Less than 50 percent of its gross income for the preceding calendar year is passive income and 2. Less than 50 percent of the weighted average percentage of assets (tested quarterly) held by it are assets that produce or are held for the production of passive income (i.e. dividends, interest, annuities etc.) 3. For details refer to FAQ above.
Competent Authority	In the case of the United States, the Secretary of the Treasury or his delegate. For CRS, the Competent Authority is the entity responsible for CRS in the jurisdiction
CAA	CRS requires countries to execute a Model Competent Authority Agreement ("CAA") providing the international legal framework for the automatic exchange of CRS information.
Controlling Persons	The natural persons who exercise control over an entity. In the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" shall be interpreted in a manner consistent with the Recommendations of the Financial Action Task Force.
Custodial Account	An account (other than an Insurance Contract or Annuity Contract) for the benefit of another person that holds any financial instrument or contract held for investment (including, but not limited to, a share or stock in a corporation, a note, bond, debenture, or other evidence of indebtedness, a currency or commodity transaction, a credit default swap, a swap based upon a nonfinancial index, a notional principal contract, an Insurance Contract or Annuity Contract, and any option or other derivative instrument).



Term	Explanation
Custodial Institution	<p>Any entity that holds, as a substantial portion of its business, financial assets for the account of others. 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 percent of the entity's gross income during the shorter of:</p> <ol style="list-style-type: none"> 1. The three-year period that ends on December 31 (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or 2. The period during which the entity has been in existence.
De Minimis rule	<p>FIs participating in FATCA program can choose to adopt the De Minimis rule whereby pre-existing accounts with balance below the De Minimis amount can be considered as Non US person and can be excluded from reporting if the entity chooses so. De Minimis amounts are US\$ 50,000 for Individuals and US\$ 250,000 for entities. For CRS the De Minimis rules are applicable for entities only.</p>
Depository Account	<p>Includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also generally includes an amount held by an insurance company under an agreement to pay or credit interest thereon.</p>
Depository Institution	<p>Any entity that accepts deposits in the ordinary course of a banking or similar business.</p>
Expanded Affiliate Group	<p>Expanded Affiliated Group – EAG under FATCA. EAG includes the legal entities that form part of an entities submission to become a PFFI. Subsidiaries, SPVs and overseas branches all form a part of the EAG.</p>
Entity	<p>A legal person or a legal arrangement such as a trust.</p>
Equity Interest	<p>In the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Specified U.S. Person shall be treated as being a beneficiary of a foreign trust if such Specified U.S. Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.</p>

Term	Explanation
Excepted NFFE	A class of NFEs (non-financial foreign entity) that include publically traded non-US companies, foreign governments, international organisations, foreign central banks.
Exempt Beneficial Owner	<p>Certain types of FFIs are exempt beneficial owners and are exempt from FATCA tax for payments received as beneficial owners (but not as intermediaries). These entities include:</p> <ol style="list-style-type: none"> 1. Foreign governments and their political subdivisions and wholly owned instrumentalities and agencies; 2. International organizations and their wholly owned instrumentalities and agencies; 3. Foreign central banks of issue; 4. Governments of US possessions; 5. Certain foreign retirement funds; and 6. Certain foreign investment entities that are wholly-owned by one or more other exempt beneficial owners.
FATCA	Foreign Account Tax Compliance Act refers to Chapter 4 of the Internal Revenue Code covering section 1471 through 1474. FATCA was enacted to assist the US Government to minimize instances of tax evasion by US person by investing abroad using offshore account
FATCA Officer	FATCA Officer is a person designated by FI or its subsidiaries to support the RO in implementing and managing compliance with FATCA
Financial Account	<p>An account maintained by a Financial Institution, and includes:</p> <ol style="list-style-type: none"> 1. In the case of an entity that is a Financial Institution solely because it is an Investment Entity, any equity or debt interest (other than interests that are regularly traded on an established securities market) in the Financial Institution; 2. In the case of a Financial Institution not described in subparagraph 1(s)(1) above, any equity or debt interest in the Financial Institution (other than interests that are regularly traded on an established securities market), if <ul style="list-style-type: none"> ▪ The value of the debt or equity interest is determined, directly or indirectly, primarily by reference to assets that give rise to U.S. Source Withhold-able Payments, and ▪ The class of interests was established with a purpose of avoiding reporting in accordance with this Agreement; and ▪ Any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, non-transferable immediate life annuity that is issued to an individual and monetizes a pension or disability benefit provided under an account, product, or arrangement identified as excluded from the definition of Financial Account in Annex II. Notwithstanding the foregoing, the term "Financial Account" does not include any account, product, or arrangement identified as excluded from the definition of Financial Account in Annex II.

Term	Explanation
First Model CAA	The first Model CAA -is a bilateral and reciprocal model. It is designed to be used in conjunction with Article 26 of the OECD Model Double Tax Agreement.
Financial Institution	Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
Flow-through entity	The term flow-through entity means a partnership, simple trust or grantor trust, as determined under US tax principles.
Form W 8 BEN	A US tax form used to confirm Non US status of an individual, in the event of presence of US indicia
Form W 8 BEN E	A US tax form used to confirm Non US status of an entity, in the event of presence of US Indicia, except for passive NFE.
Form W 9	A US tax form to be submitted by a "US person" providing relevant details
GIIN	Global Intermediary Identification Number is a unique identification number issued to financial institutions who comply in the FATCA program
Grandfather obligations	Grandfather obligations are any obligation outstanding on January 1, 2014 but does not include any legal agreement or instrument that: <ul style="list-style-type: none"> 1. Is treated as equity for US tax purposes 2. Lacks a stated expiration or term (for example, a savings deposit or demand deposit, a deferred annuity contract or a life insurance contract or annuity contract that permits a substitution of a new individual as the insured or as the annuitant under the contract); 3. Is a brokerage agreement, custodial agreement, investment linked insurance contract, investment linked annuity contract or similar agreement to hold financial assets for the account of others and to make and receive payments of income and other amounts with respect to such assets; or 4. Is a master agreement that merely sets forth standard terms and conditions that are intended to apply to a series of transactions between parties but that does not set forth all of the specific terms necessary to conclude a particular transaction.



Term	Explanation
HIRE Act	Hiring Incentive for Restoration of Employment Act. The HIRE Act was passed into law on 18 March 2010 and it included the provisions for enacting FATCA
IGA	Inter-Governmental Agreement. Agreements entered by governments of various countries with the US Government to implement FATCA as a government to government initiative
Passive NFE	Passive NFE is an NFE that is not an Active NFE. The definition of Active NFE essentially excludes Entities that primarily receive passive income or primarily hold amounts of assets that produce passive income (such as dividends, profits, rents etc.), and includes entities that are publicly traded (or related to a publicly traded Entity), Governmental Entities, International Organisations, Central Banks, or a holding NFEs of nonfinancial groups. An exception to this is an Investment Entity that is not a Participating Jurisdiction Financial Institution, which is always treated as a Passive NFE. For details refer to FAQ.

