



## New and Updated FATCA FAQs

### Closing the distance

**The IRS publishes new and updated FAQs on its [FATCA - FAQs General web-page](#) and [FATCA - Registration System FAQs web-page](#).**

The IRS has recently published a series of new FAQs on its [FATCA - FAQs General page](#) and on its [FATCA - Registration System FAQs page](#). Brief review of the new and updated FAQs is provided below.

#### **FATCA – FAQs General page updates**

##### **Registration Update**

In [FAQ 15](#), under the Registration Update section of the [FATCA – FAQs General page](#), the IRS has indicated that an entity may disregard the “Overdue” Renewal Status on its FATCA registration page, if the Renewal Effective Date for the entity is 01/01/2017, the entity’s registration Status is “Approved” and the entity has also fulfilled its FFI agreement renewal obligation (if any).

##### **FATCA Certifications**

In [FAQ 14](#), under the FATCA Certifications section of [FATCA - FAQs General page](#), the IRS has indicated that, during the FATCA certification the responsible officer (“RO”) should select the answer “Not Applicable” (when such answer option is provided) to a certification question, if the question itself does not apply to the certifying entity. Selecting “No” as an answer to the question instead of “Not Applicable”, implies that the question is applicable to the certifying entity, but the answer to the question is “No”. To illustrate this difference, the FAQ 14 cites the following certification question/statement and explains the type of answer (i.e. “Yes”, “No”, and “Not Applicable”) that should be submitted in response to this question/statement in light of the underlying circumstances: “with respect to any failure to withhold, deposit, or report if required under the FFI agreement, the participating FFI has corrected such failure by paying any taxes due (including interest and penalties) and filing the appropriate (or amended return)”. The RO’s response to this statement should be: (i) “Yes”, if the RO has identified such failure and has corrected it as stated in the question; (ii) “No” if the RO has identified such failure but has not corrected it as stated in the question; or (iii) “Not Applicable” if the certifying entity does not have any failure stated in the question/statement, and therefore the question is not applicable to the certifying entity.

##### **Qualified Intermediaries/Withholding Foreign Partnerships/Withholding Foreign Trusts**

The IRS also added [FAQ 5](#) and [FAQ 6](#) to the Qualified Intermediaries/Withholding Foreign Partnerships/Withholding Foreign Trusts (“QI/QP/WT”) section of [FATCA - FAQs General page](#).

[FAQ 5](#) clarifies what should be done to maintain the qualified intermediary (“QI”) designated accounts under the QI if a QI merges into non-qualified intermediary (“NQI”).

According to [FAQ 5](#), first, the NQI must obtain QI status by the merger date. The original QI must notify the IRS that it intends to terminate its QI agreement by delivery of a notice of termination and merger through the QI/QP/WT Application and Accounts Management System according to Sec. 11.05 of the QI Agreement. The original QI must supplement this notice with the additional information and must comply with the other requirements set out in Sec. 11.05 of the QI Agreement. The successor QI will be required to provide certifications as required by Sec. 11.02(B) of the QI agreement for the original QI’s compliance period running up to the merger date. Additionally, the successor QI must also provide the withholding agent with a Form W-8IMY representing its status as a QI with respect to the successor QI’s QI-designated accounts.

[FAQ 6](#) clarifies the procedures that must be followed if a QI re-domiciles into another country after merging with a newly-formed entity while the QI’s accounts remain with a branch in the original country of QI’s residency. In this scenario, the QI does not lose its QI status and accordingly, the QI does not need to re-apply for the QI status after re-domiciliation. The QI, however, must report its new name and the new registered office address on the QI/WP/WT Application and Accounts Management System after its re-domiciliation and must update its branch information in the same system. If the QI is an FFI or a sponsoring entity, it must also update its information on the FATCA Registration System.

[FAQ 6](#) also clarifies that in the above re-domiciliation scenario, the QI will not be required to submit the notice of termination or the certification required under Secs. 11.05 or 11.02(B) of the QI Agreement. The QI, however, must provide the withholding agent with a Form W-8IMY that reflects change in circumstances relevant to this form.

## **FATCA - Registration System FAQs page updates**

The IRS has also updated a series of FAQs on the [FATCA - Registration System FAQ page](#).

### **FATCA Registration System - Overview**

The IRS updated [FAQ 1](#) in the FATCA Registration System Overview section to clarify that the FATCA Online Registration System is a secure, web-based system that users may use to register, renew their agreement, and certify, for themselves and associated entities (if any).

### **General System Questions**

The IRS updated [FAQ 12](#) in the General System Questions section to clarify that if an entity account is in “registration submitted” or “approved” status, then the entity may download the registration questions and answers, and the points of contact table in the PDF format. This information may be downloaded by following the “Print Registration Information” link on the entity account home page.

The entity may also download other registration tables under “Available Account Options” and “My Information” in PDF and CSV formats. Sponsoring entities may download the list of their sponsored entities in PDF or CSV format.

### **FATCA Account Creation and Access**

The IRS updated [FAQ 1](#) and [FAQ 3](#) in the FATCA Account Creation and Access section. Updated [FAQ 1](#) clarifies that the RO of the FI is an individual with authority under local law to submit the information on behalf of the FI or direct reporting non-financial foreign entities (“NFFE”). During the registration, the RO may identify (5) additional points of contact on the FI FATCA registration form.

Updated [FAQ 3](#) clarifies that the challenge questions that are used in the FATCA registration system, are selected and answered from the predefined list when creating an entity account on the FATCA registration system or at the first time log-in in to the same system. The challenge questions are used to reset the FI’s access code. The challenge questions and answers may be reviewed and updated at any time from the entity’s account. Specifically, the authorized person may log-into the FI’s home page at FATCA registration system, select the “Challenge Questions – Edit/Review” option and update the challenge questions and answers to them.

## Registration Status and Account Notifications

The IRS updated [FAQ 1](#) under the Registration Status and Account Notifications section to specify that the FATCA registration system will notify a RO by email when a change occurs to the account or when an action is required. Additionally, the corresponding message will also appear on the message board of the entity's FATCA account home page. The system will send out notifications upon registration status change, transfer to an expanded affiliated group, FFI type change, renewal of FFI agreement, certification, and other required actions. A sponsoring entity RO will get emails about status updates for multiple sponsored entity file uploads.

## Expanded Affiliated Groups

The IRS updated [FAQ 6](#) and [FAQ 7](#) under the Expanded Affiliated Groups ("EAG") section. [FAQ 6](#) specifies that member of one EAG may transfer to another EAG when both EAGs are in an approved status. The [FATCA Registration Online User Guide](#) provides additional guidance on this matter.

[FAQ 7](#) clarifies why the system may cancel transfer request and when the transfer request expires. According to [FAQ 7](#), the request for the transfer from one EAG to another EAG will be cancelled for the following reasons: (i) requesting entity's status or the new lead's registration status has changed to a status that does not allow transfers; (ii) the EAG has reached the maximum number of members allowed; (iii) the lead did not accept the transfer within 45 days of transfer initiation; (iii) the requesting entity did not finalize the transfer within 45 days of the lead's acceptance.

## Registration Updates

The IRS updated [FAQ 1](#), [FAQ 2](#), [FAQ 6](#), and [FAQ 8](#) under the Registration Updates section. [FAQ 1](#) clarifies that, entity's registration information may be edited if the entity status is "Registration Incomplete", "Registration Submitted", or "Approved". Once the entity account is created whether on the paper Form 8957 or online, all updates must be made online. The information may be edited by going to entity's home page and choosing "Registration - Edit" under "Available Account Options".

Updated [FAQ 2](#) clarifies how a FI can change the FI type in question 1 of the FI registration. According to the updated [FAQ 2](#), FIs or direct reporting NFFEs can edit their FI Type listed in question 1, if the FI or the NFFE is in an approved status. The FI can edit its FI type without cancelling its current registration agreement by selectin the "Change FI Type" link on the home page and completing the registration form again. FATCA registration system allows the following FY Type changes: (i) member to single; (ii) single to lead; (iii) single to member (transfer to an EAG); and (iv) lead to member (transfer to an EAG). Lead or a single FI may transfer to an EAG if the FI knows the FATCA ID of the new lead of the EAG. Additional information on this matter is provided in the [FATCA Registration Online User Guide](#).

Updated [FAQ 6](#) clarifies how the FI may delete or cancel its registration. Specifically, before the approval, a FI can select the "Registration - Delete" option from its home page to delete the registration. Member FI's cannot delete their own registration. Instead, the lead FI may delete the member FI's registration. A lead cannot delete its own registration if it has active members or pending transfers into its EAG.

If the FI's registration is in an "Approved" status, the FI cannot delete its registration; instead, it can cancel its agreement from its own home page. A lead cannot cancel its agreement if it has active members or pending transfers into its EAG. The lead FI cannot cancel a member FI's agreement; instead, the member FI must cancel its own agreement. Additional guidance on deleting FATCA registration and canceling agreements are set forth in the [FATCA Registration Online User Guide](#).

Updated [FAQ 8](#) clarifies what should be done if the FI's FATCA registration status changes from "Approved" to "Registration Incomplete" because the FFI agreement was not renewed. In this situation, the RO of the FI should log on to the FATCA FFI Registration System, verify and update the registration information (if needed) and re-submit the registration agreeing to the new FFI Agreement.

## Sponsoring Entity

The IRS updated [FAQ 5](#) and [FAQ 6](#) under the Sponsoring Entity section.

Updated [FAQ 5](#) clarifies that sponsored entities and sponsored subsidiary branches do not have FATCA IDs; these entities do have a sponsored entity ID instead but cannot log in to the FATCA registration system. Upon approval, sponsored entities and sponsored subsidiary branches are assigned GIINs and will appear on the FFI List if their sponsoring entity is also in an “Approved” status.

Updated [FAQ 6](#) clarifies that the sponsoring entity can add or delete sponsored entities and sponsored subsidiary branches through the “Manage Sponsored Entities” link on the FI’s home page. Sponsoring entity may edit only name of the sponsored entity without having to delete the sponsored entity. To update the jurisdiction or the classification, the sponsored entity or the sponsored subsidiary branch will need to be deleted and then added back again. If the sponsored entity is deleted, then all of its sponsored subsidiary branches and their GIINs (if applicable) will also be deleted.

## **FFI List**

The IRS updated [FAQ 1](#) under the FFI List section to clarify that registered FIs and direct reporting NFFEs will be included with their GIINs on the monthly IRS FFI List if both of the following conditions are satisfied: (i) their registration is in an “Approved” status five business days prior to the last business day of the month (Monday through Friday, excluding U.S. holidays); and (ii) the last business day of the month. Additional information about the FFI List may be found at the following web-pages: [About the FATCA FFI List Search and Download Tool](#) and [FATCA FFI List FAQs](#).

## **Certification**

The IRS updated questions ([FAQ 1](#) through [FAQ 6](#)) under the Certification section.

Updated [FAQ 1](#) clarifies that the message board for an entity’s FATCA account will indicate when the periodic certification is available for completion and submission. The RO will find the periodic certification dates and a link to the certification on the entity’s homepage.

Updated [FAQ 2](#) clarifies that an entity cannot change its classification if it reached the certification instructions page. Therefore, entity must submit the certification using the classifier it selected. The entity, however, may submit another certification and choose different classification to correct its prior submission. Alternatively, the entity may also update its classification by editing its registration and updating the answer to registration Question 4 – Classification. [FATCA Registration Online User Guide](#) provides additional guidance on the change of classification.

Updated [FAQ 3](#) clarifies an entity will receive a message on its message board notifying the RO when a certification is available. However, whether the FI must actually complete the certification depends on the classification the entity selects upon start of certification. Upon selection of classification, the system will display a screen indicating whether the FI is required to submit certification. The FI will also receive a message in its message board on the same matter.

Updated [FAQ 4](#) clarifies that the entity will not be able to upload files supporting its certification but the entity may provide additional information in the course of the certification.

Updated [FAQ 5](#) clarifies that if the lead FI includes a member of the FI group in the certification, then the member will receive notice about this fact. In addition, once completed, the future certification dates of the included member will be updated to match the future certification date of the lead FI.

Updated [FAQ 6](#) states that a certification may not be edited after submission but the entity may submit another certification with updated responses. The additional certification will not override the previous certification. Once the additional certification is initiated, the system will display a certification pages populated with the information submitted during the initial certification. The RO may edit the pre-populated information; however, the IRS will keep copies of all submitted certifications.

## **Global Intermediary Identification Number (GIIN) - Overview**

The IRS updated [FAQ 3](#), [FAQ 5](#), and [FAQ 6](#) under the Global Intermediary Identification Number (GIIN) - Overview section. Updated [FAQ 3](#) and [FAQ 5](#) clarify the type of entities that will not be issued a GIIN and where the financial

institution may locate its GIIN. Updated [FAQ 6](#) confirms that the editing of the registration will not affect the registration status and the GIIN unless the country of tax residence is changed. A change of the country of residency will affect the last three characters of the GIIN. The GIIN in this case will not be changed immediately; rather it will be changed once the updated registration is processed.

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