



IRS updates FAQs addressing FFI Agreement Renewal, Common Errors in Registration Process and Data Security

Over the last couple of months, the IRS has made numerous updates to the FATCA FAQs general [webpage](#) and IDES Technical [webpage](#), providing additional guidance on registration, reporting, and notifications.

On July 3, 2017, the IRS added four new FAQs to the FATCA FAQs general [webpage](#). One of the new FAQs states that, if an entity was required to enter into an FFI agreement and did so before January 1, 2017, such entity must have renewed the FFI agreement by July 31, 2017, or would be removed from the FFI list. Under the same FAQ, the IRS provides additional guidance as to specifically which type of entities were required to renew their FFI agreement and directs you to Rev. Proc. 2017-16, Treasury regulations and relevant IGA for further guidance to this respect. Under another FAQ, the IRS further clarified that entities not required to renew their FFI agreement will remain in the "Approved Status" and on the FFI list without additional action, subject to one exception: entities that are located in a Model 1 jurisdiction that entered into an FFI agreement on behalf of branches operating outside of Model 1 jurisdictions must have renewed the FFI agreement on behalf of those branches. Another FAQ states that the FFI agreement contained in Rev. Proc. 2014-38 terminated on December 31, 2016. Therefore, if an entity did not renew the FFI agreement contained in Rev. Proc. 2017-16 by July 31, 2017, then such entity would be considered a nonparticipating FFI as of January 1, 2017 and would be removed from the FFI list. If the entity was required to renew the FFI agreement but in the FATCA FFI registration system home page by mistake stated that it was not required to do so, such entities could still have completed their renewal before the July 31, 2017 deadline.

On July 25, the IRS added two new FAQs on the FATCA IDES Technical [webpage](#). The FAQs states that if an entity has a valid certificate from an approved certificate authority that is no longer on the list, the entity can continue to use this certificate until the certificate expiry. Once the certificate expires, the entity will have to replace it with a certificate from the current list. The FAQs also state that IDES accepts all listed EV-SSL certificates.

On July 25, the IRS added a new FAQ to the FATCA FAQs general [webpage](#). Before the update, this FAQ provided guidance for the situation in which the Form W-8 was considered to have been scanned and received electronically by the withholding agent. After the update, however, the IRS, clarified that that this FAQ is now superseded by Treasury Regulation §1.1441-1(e)(iv)(E).

On July 31, the IRS added two new FAQs to the FATCA FAQs general [webpage](#). One of these FAQs states that, the Office of Foreign Asset Control ("OFAC") publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries; this list also includes individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, such individuals and companies are called "Special Designated Nationals" or SDN's; their assets are blocked and US persons are prohibited from dealing with them. Another FAQ clarifies that an entity that is on OFAC's SDN list is not eligible to register and receive a GIIN.

On August 1, the IRS added one FAQ to the FATCA FAQs general [webpage](#) with respect to the entities which missed the FFI agreement renewal deadline. The IRS states that participating FFIs (including Reporting Model 2 FFIs) that missed the July 31, 2017 renewal deadline but that otherwise complied with the terms of the FFI agreement, could have renewed the FFI agreement until October 24, 2017. The IRS further clarifies that if an entity failed to meet the October deadline too, its registration status would be changed to "incomplete", its GIIN would no longer appear on the monthly FFI list beginning in November and such entity would be considered a non-participating FFI as of January 1, 2017.

On September 20, the IRS added another FAQ to the FATCA FAQs general [webpage](#) setting out the eight most common errors made during the registration process. According to the IRS, these errors include: submitting a QI EIN when selecting the Sponsoring Entity, abbreviating the legal name of the financial institution, submitting a FATCA classification not consistent with the corresponding IGA, leaving mailing address field blank, or submitting erroneous information or website address; providing numbers or UI/WT/WP status in the registration form when the entity is not registered with IRS QI/WT/WP program; leaving the FATCA RO section blank or providing erroneous information, or submitting only the initials, nicknames or the company names; the trust FI providing name of a law firm as a name of RO; including title or FI name in the RO name; providing wrong information in the RO business address, country/jurisdiction, or business email and telephone lines; leaving blank or providing anything other than natural person's full name in the FI agreement signature and certification section; submitting a test, fictitious or in-process accounts in FATCA registration system instead of leaving the information in "initiated" status.

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