

FATCA and CRS compliance
Understanding the requirements

Foreign Account Tax Compliance Act (FATCA)

FATCA is a U.S. legislation which aims to combat tax evasion by U.S. persons. The intent behind the law is for Foreign Financial Institutions (FFIs), i.e. non-U.S. financial institutions to identify and report any U.S. persons that hold assets abroad to the Internal Revenue Service (IRS).

As of today, a large majority of FFIs in the Middle East region are adhering to the FATCA requirements (either by entering into a FATCA agreement directly with the IRS or by complying with the local Intergovernmental Agreement) due to the potential commercial, reputational and financial risks (e.g. withholding and regulatory penalties) of non-compliance.

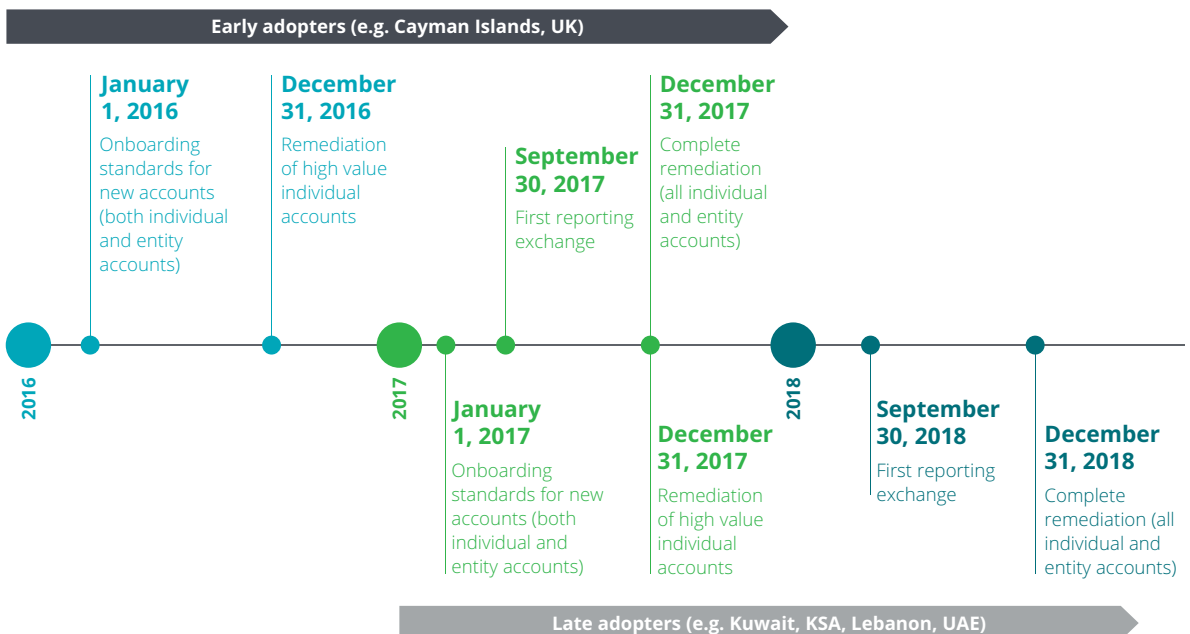
Common Reporting Standard (CRS)

Following on from FATCA, the Organization for Economic Cooperation and Development (OECD) has formed an initiative for global tax transparency known as the CRS.

The CRS is a broad reporting regime that draws extensively on the intergovernmental approach to the implementation of FATCA.

Similar to FATCA, the CRS requires all financial institutions resident in a participating jurisdiction to identify and report any reportable accounts (typically persons tax resident in a CRS participating jurisdiction). As of January 2017, over 100 jurisdictions have signed or committed to sign the CRS. This includes Bahrain, KSA, Kuwait, Lebanon, Qatar and the UAE in the late adopters group.

The CRS milestones



Should Financial Institutions in the Middle East be preparing for CRS?

Based on the recent CRS developments in this region, most specifically in Kuwait, KSA, Lebanon and the UAE, it is very important for Financial Institutions (FIs) to begin preparing for CRS. Although detailed guidance has only been issued by the UAE Ministry of Finance (MoF), the implementation of the CRS regime within the Middle East and wider region is inevitable, given its aim of combatting global tax evasion.

Accordingly, FIs should now be considering the strategic and readiness steps that should be undertaken to ensure that effective processes and procedures are in place that comply with the regulations.

Preparation is key given that implementation and transition to business as usual is generally time-consuming and can cause increased pressure and disruption on resources and business lines. It is also expected that local regulators will introduce penalties for non-compliance, therefore FIs need to be pro-active to avoid unwanted financial burdens.

Given the first CRS milestone of 1 January 2017, FIs at this stage are at a minimum expected to be onboarding customers in line with the regulatory requirements

FATCA vs. CRS

Key considerations	FATCA	CRS
Registration	IRS registration to obtain Global Intermediary Identification Number (GIIN)	No registration required
Withholding	Withholding required on Non Participating Foreign Financial Institutions (NPFIs) and recalcitrant account holders	Withholding not applicable, however penalties are expected to be introduced for non-compliance
Reportable persons	Based on U.S. citizenship/U.S. residency	Based on residency for tax purposes in a reportable jurisdiction
Thresholds for pre-existing accounts	FI may choose to apply thresholds in order to minimize due diligence	Threshold does not apply for individuals (may apply for entities)
Documentation requirements	Forms W-8/W-9 may be used to capture all required information	Must update and obtain self-certifications to capture the additional required information

Deloitte's approach to FATCA and CRS

FATCA/CRS service offerings

Phase I – Analyzing impact



Entity classification

Determining the classification of the entity under the regulations and whether it is subject to the compliance requirements



Impact assessment and gap analysis

Analyzing the impact as well as the current gaps within the entity (e.g. products, systems, departments, processes, etc.) that need to be addressed in order to comply with the regulations



Awareness workshop

Conducting workshops to increase awareness of the regulations within the organization



Customer remediation

Supporting the implementation of due diligence requirements



Reporting support

Assistance with the reporting process to the relevant authority/regulator



Policies and procedures

Creating policies and procedures in line with the regulations and respective business strategy



Technical review

Conducting a full technical review to validate if the organization is following its policies and procedures and properly complying with the regulations



Technical helpline

Ongoing assistance in relation to FATCA/CRS queries along with updates on technical developments, deadlines and any regulatory changes



Customized training

Customized FATCA/CRS training based on your requirements

Phase II – Implementation assistance and ongoing support

Contacts



Alex Law
Partner, Tax
Deloitte Middle East
Tel +971 (0) 4 506 4891
alexlaw@deloitte.com



Denise Hintzke
Global FATCA Leader
Deloitte United States
Tel +1 2 12 436 4792
dhintzke@deloitte.com



Karim Ousta
MENA FATCA Manager
Deloitte Middle East
Tel +971 56 284 4829
kousta@deloitte.com



This publication has been written in general terms and therefore cannot be relied on to cover specific situations; application of the principles set out will depend upon the particular circumstances involved and we recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Deloitte & Touche (M.E.) would be pleased to advise readers on how to apply the principles set out in this publication to their specific circumstances. Deloitte & Touche (M.E.) accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 225,000 professionals make an impact that matters, please connect with us on Facebook, LinkedIn, or Twitter.

Deloitte & Touche (M.E.) is a member firm of Deloitte Touche Tohmatsu Limited (DTTL) and is a leading professional services firm established in the Middle East region with uninterrupted presence since 1926.

Deloitte provides audit, tax, consulting, and financial advisory services through 26 offices in 15 countries with more than 3,300 partners, directors and staff. It is a Tier 1 Tax advisor in the GCC region since 2010 (according to the International Tax Review World Tax Rankings). It has also received numerous awards in the last few years which include best employer in the Middle East, best consulting firm, the Middle East Training & Development Excellence Award by the Institute of Chartered Accountants in England and Wales (ICAEW), as well as the best CSR integrated organization.