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FATCA and CRS compliance in the Middle East

Understanding the requirements

In the Middle East
since 1926

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, the goal of which is to tackle offshore tax evasion, 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 May 2018, over 100 jurisdictions have signed or committed to sign the CRS; including Bahrain, Kuwait, Lebanon, Qatar, Saudi Arabia and the United Arab Emirates.

For example, if a Lebanese tax resident holds a depository account in a KSA bank, the bank will have to report that account information to the KSA regulators who will forward that information to the Lebanese tax authorities.

Illustrative example

Lebanese tax resident holds a depository account at a KSA bank

KSA bank will have to report that account information to the KSA regulators

KSA regulators will forward that informationto the Lebanese tax authorities

Overview of the compliance steps

In order to make sure that Financial Institutions (FIs) are in proper compliance with the regulations, it is very important that they are aware of their FATCA/CRS obligations:

New account holders: On-board customers in line with the requirements

Pre-existing account holders: Apply the review process on existing customers

Policies and procedures: Establish an appropriate compliance framework

Reporting: Identify and report reportable accounts

Preparing for the first CRS reporting season in the region

Given the fast approaching reporting deadlines it is very important that FIs are fully prepared for reporting. Accordingly FIs should now be considering, if not already done so, the strategic and readiness steps that should be undertaken to ensure the appropriate processes and procedures are in place to meet compliance.

We note that non-compliance; such as the failure to establish a compliance framework, the failure to document the due diligence procedures that is being applied by the FI to identify reportable accounts, the failure to report, or inaccurate reporting, may lead to serious financial and reputational penalties. However, these risks can be easily avoided by making sure that you evaluate where your institution currently stands in terms of CRS compliance, identify the gaps that exist (if any), and take the necessary action steps to make sure you meet the regulatory requirements.

Jurisdiction	Bahrain	Kuwait & KSA	Lebanon & UAE	Qatar
Annual CRS reporting deadline*	**2 May**	**31 May**	**30 June**	**TBC** (31 July-FATCA)

*As per local legislation - but these dates are subject to change

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

Phase II – Implementation assistance and ongoing support

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

Reporting support
Assistance with the reporting process to the relevant authority/regulator

Customer remediation
Supporting the implementation of due diligence requirements

Compliance 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