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FATCA and CRS compliance in the Middle East

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)

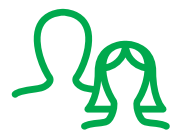
Following on from FATCA, the Organization for Economic Cooperation and Development (OECD) has formed an initiative for global tax transparency known as the CRS.

The CRS is a broad reporting regime, 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 information to 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.



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

Deloitte's approach to FATCA and CRS

