

FATCA AND CRS

FREQUENTLY ASKED QUESTIONS

What is FATCA?

FATCA stands for Foreign Accounts Tax Compliance Act. It is a 2010 United States federal law requiring all non-U.S. ('foreign') financial institutions (FFIs) to identify U.S. citizens or residents, who either directly or indirectly, invest outside the USA through foreign financial institutions and report the assets and identities of such persons to the U.S. Department of the Treasury.

What is CRS?

The Common Reporting Standard (CRS) is the standard for the Automatic Exchange of Information (AEOI) developed by the Organisation for Economic Co-operation and Development (OECD). It is a new reporting and information-gathering requirement for financial institutions in participating countries, to help fight against tax evasion and protect the integrity of tax systems.

What is the main purpose of FATCA?

The main purpose of the FATCA is to detect, deter and discourage offshore tax evasion by U.S. citizens or residents, who either directly or indirectly, invest outside the USA through foreign financial institutions.

What is the main purpose of CRS?

The main purpose of the CRS is to combat the offshore tax evasion and to provide minimum set of standards and framework to increase efficiency and decrease cost associated with exchange of information. Local Financial Institutions report CRS specific information to their Competent Tax Authority, who in turn exchange this information with the respective Competent Authorities of the Participating Jurisdictions with which they have an agreement in place.

What is the difference between FATCA and CRS?

Although the CRS was largely based on the FATCA Model 1 IGA, there are many differences between the two reporting regimes. Key differences include the following:

	FATCA	CRS
For Governing Authority	United States	Separate participating tax jurisdictions

Withholding	30% withholding on Non-Compliant Payees / Intermediaries	No Withholding
Account Scope	US Individual Accounts, US Entity Accounts and Passive NFFE accounts held by substantial US owners	Individual and Entity accounts held by tax residents of any CRS participating jurisdiction or Passive NFEs with Controlling persons that are resident in any CRS participating jurisdiction
Thresholds	New Individual client: \$50,000 New Entity client: N/A Preexisting Individual client: \$50,000 (generally) and \$250,000 (cash value insurance) Preexisting Entity client: \$250,000	Preexisting Entity client: \$250,000 With the exception of preexisting entity accounts, no thresholds applicable
Documentation Requirements	Forms W-8/ W-9 may be used to capture all tax data	U.S. Tax Forms are not acceptable to capture all CRS data (e.g. multiple tax residences, CRS legal entity classification); CRS self-certifications must be developed
New Accounts of Preexisting Account Holders	Allowed to treat new accounts of preexisting clients as preexisting accounts IF the Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Preexisting Account	Same as FATCA and UK CDOT but is not allowed when by instance, the account holder of a preexisting account needs to provide new, additional, or amended customer information (as a result of a legal, regulatory, contractual, operational or any other requirement).
Sponsored Entities	Category available with special rules applicable	Category not available

Is FATCA applicable in Cyprus?

Yes. Several countries, including Cyprus, signed an Intergovernmental Agreement with the USA (IGA), in order to facilitate the implementation of FATCA provisions by financial institutions in their jurisdictions. FATCA came into effect on 01/07/2014.

Is CRS applicable in Cyprus?

Yes. Cyprus has signed the Multilateral Competent Authority Agreement (MCAA) for CRS as early adopter. This means that Cyprus will be adopting the CRS into its national legislation and CRS came into effect as from 1 January 2016.

Furthermore, as a European Union Member State, Cyprus must also implement the Directive 2011/16/EU on administrative cooperation in the field of direct taxation (DAC) as amended by Directive 2014/107/EU in its national legislation.

Which jurisdictions have signed a MCAA for CRS?

As of December 2015, 102 jurisdictions committed to the CRS (<http://www.oecd.org/ctp/exchange-of-tax-information/MCAA-Signatories.pdf>), of which 50 committed to be early adopters (CRS came into effect as from 1 January 2016).

Who is within the scope of FATCA?

FATCA was introduced to place the responsibility for reporting foreign income upon the payer of the income, rather than on the taxpayer. As from 1 July 2014, non-US entities that do not comply with these requirements could be subject to a 30% withholding tax on certain payments from the US. The rules apply to any foreign financial entity which accepts deposits in the normal course of business; holds assets for others as nominee or custody services; is primarily engaged in investing, reinvesting or trading in securities or commodities; or is an insurance company that makes payments in respect of a financial account. This will include banks, investment funds, insurance companies, mutual funds, brokers, custodians, intermediaries and private equity firms.

Who is within the scope of CRS?

The CRS regulation generally applies to any Financial Institution (FI) located in a CRS participating jurisdiction and obliges those Financial Institutions to identify tax residency of account holders. CRS applies to both individuals and entities. An up to date list of the countries that have either signed or committed to adopt CRS can be found on the OECD's site at: <http://www.oecd.org/tax/transparency/AEOI-commitments.pdf>

Cyprus Financial Institutions are required to identify reportable accounts based on the information collected (via a self-certification) and report them accordingly to the Cyprus tax authority. In turn, the Cyprus tax authority exchanges information with the tax authorities of Reportable Jurisdictions. (Note: the list of reportable jurisdictions will be released by the Cyprus tax authority.) Among other items, self-certification information includes the country(ies) of tax residence and the tax identification number(s).

Who is reportable under FATCA?

FATCA requires financial institutions to report annually on “reportable accounts” i.e. on personal and non-personal accounts held by one or more United States persons or certain

entities in which one or more United States persons hold a substantial ownership or controlling interest.

Who is reportable under CRS?

The CRS seeks to establish the tax residency of customers. Under the CRS, financial institutions are required to identify customers who are tax resident in foreign jurisdictions i.e. outside of the country where they hold their accounts and products, and report certain information to the national tax authority.

What is reported under FATCA?

- (1) the name, address, and U.S. TIN of each Specified U.S. Person that is an Account Holder of such account and, in the case of a Non-U.S. Entity that, after application of the due diligence procedures set forth in Annex I, is identified as having one or more Controlling Persons that is a Specified U.S. Person, the name, address, and U.S. TIN (if any) of such entity and each such Specified U.S. Person;
- (2) the account number (or functional equivalent in the absence of an account number);
- (3) the name and identifying number of the Reporting Cyprus Financial Institution;
- (4) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year, immediately before closure;
- (5) in the case of any Custodial Account:
 - (A) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - (B) the total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Cyprus Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
- (6) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
- (7) in the case of any account not described in subparagraph 2(a)(5) or 2(a)(6) of this Article, the total gross amount paid or credited to the Account Holder with respect to

the account during the calendar year or other appropriate reporting period with respect to which the Reporting Cyprus Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

What is reported under CRS?

- (1) the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;
- (2) the account number (or functional equivalent in the absence of an account number);
- (3) the name and identifying number (if any) of the Reporting Financial Institution;
- (4) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
- (5) in the case of any Custodial Account:
 - (A) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - (B) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
- (6) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
- (7) in the case of any account not described in subparagraph 2(e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

Do FATCA and CRS apply to all Banks and financial institutions in Cyprus?

Yes. FATCA and CRS apply to **ALL** Banks and financial institutions in Cyprus.

What does FATCA and CRS mean for BOC customers?

For the opening of a new account, BOC is required to obtain from customers their tax residence(s) for tax purposes, and their tax identification number(s), among other items. Without this information, BOC, as with any other Financial Institution in a FACTA/CRS participating jurisdiction, is not authorized to open a new bank account.

For Pre-existing customers, BOC contacted all customers subject to FATCA/CRS review to obtain a self-certification form in which they determine their residence(s) for tax purposes and provide their tax identification(s) number. Without a self-certification, BOC is legally obliged to consider the account holder as a Reportable Person. As a consequence, undocumented account holder information will be reported to the relevant tax authorities.

Bank of Cyprus is committed to comply with FATCA/CRS legislation with a minimum burden on our customers.

Where can I get more information regarding FATCA and CRS from?

For further information please consult the following websites:

- a. The Cyprus Tax Department at <http://www.mof.gov.cy/mof/taxdep.nsf/>
- b. The Association of Cyprus Banks at www.acb.com.cy
- c. OECD at <http://www.oecd.org/tax> (CRS)
- d. US IRS at <https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca> (FATCA)