



FATCA/CRS for Insurance

In particular, life insurers are impacted by FATCA and the CRS; and confronted with certain implementation specificities.

A health check may be an ideal tool to identify and remediate implementation gaps.

Why is this relevant for insurers?

Within the insurance world, essentially life insurers are impacted directly by FATCA and the CRS since non-life insurance and reinsurance activities are (generally) not giving rise to classification and reporting obligations in the hands of the (re)insurer. On the contrary, the fact of issuing or being obligated to make payments with respect to "cash value" or "annuity" contracts gives rise to the qualification as a Financial Institution for both FATCA and CRS purposes, and life insurers exercising such activities consequently do incur specific FATCA/CRS classification and reporting obligations.

An important point of attention for life insurers are the complex product classification rules under FATCA and the CRS. For example, specific exclusions exist for certain pension and retirement products under conditions that may differ between FATCA and the CRS. The same product could thus be an exempt product under FATCA but not under the CRS, or vice versa. It goes without saying that a FATCA/CRS classification analysis

is a prerequisite for launching a new life insurance, pension or retirement product.

Other specificities include the fact that under many life insurance policies, beneficiaries can be altered at any given point in time, or could be defined in a generic way, which leads to particularities as to classification of these beneficiaries. For example, in case the beneficiaries are defined as "the heirs", the FATCA/CRS classification of these persons is only possible after they became identifiable. FATCA/CRS procedures need to foresee the practical approach to be followed for ensuring the beneficiaries are correctly classified before a payment event takes place.

Take care:

- Product classification and product exemption rules are complex, and differences in life and pension product classification can occur between FATCA and the CRS.
- Life insurers need to cope with specific points of attention such as the classification of changing or generically defined beneficiaries.

What needs to be done?

Life insurers (technically, insurers commercialising cash value and/or annuity contracts) need to determine and permanently monitor the FATCA/CRS classification of the products they commercialise or wish to develop.

A life insurer qualifying as a Reporting FI needs to:

- Cover FATCA and the CRS appropriately in its insurance product descriptions;
- Register with the US IRS in order to obtain its GIIN number;
- Ensure that all relevant parties self-certify their FATCA and CRS status upon entering into the contracts (with the particularity of establishing specific procedures for changing and generically defined beneficiaries);
- Issue specific data protection notifications to protected persons;
- Capture the necessary data to correctly exchange information on reportable persons and controlling persons of certain entity parties to the contracts;
- Have procedures in place to manage and control FATCA and CRS compliance.

How can we help?

We can help with:

- Determining the FATCA and CRS status of life insurance, pension, and retirement products, and advise on the most appropriate approach as to the contractual terms in view of FATCA and the CRS. This is also very relevant as to new products that are being developed before these go live on the market;
- Conducting health checks in order to determine whether FATCA and CRS classification and reporting obligations were met;
- Remediating any shortcomings detected during a health check;
- Reviewing product description and product marketing documents from a FATCA/CRS perspective;
- Assisting with FATCA registration of a newly established insurer-Reporting FI;
- Assisting with procedures, and documentation to be used by insurers (such as self-certification templates and data protection notification templates);
- Assisting with FATCA and CRS classification and reporting obligations;
- Providing short/medium term resources on assignment basis;
- Providing updates on relevant developments in legislation, guidance issued by tax authorities and industry associations, in Luxembourg and abroad;
- Providing a Hotline to facilitate easy access to subject matter experts in order to ensure fast responses to day-to-day questions;
- Providing trainings to relevant persons in charge of FATCA/CRS.



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