



# FATCA/CRS for Banks

Banks are obviously impacted by FATCA and the CRS.

**Post-implementation actions such as health checks and outsourcing of certain tasks may be on the agenda.**

## Relevance for Banks?

Banks are by nature Reporting Financial Institutions under FATCA and the CRS, with very few exceptions (such as e.g. "local banks"; a notion that is, however, quite irrelevant in international financial places such as Luxembourg).

Consequently, banks are generally exposed to the full scope of classification and reporting obligations under FATCA and the CRS, and to (under exceptional circumstances) FATCA withholding obligations.

An important reflection for banks having a significant number of reportable persons, is related to the strategic decision of continuing to maintain and extend own IT infrastructure to manage such reporting, or to look for a reporting outsourcing solution. Other considerations are related to the recruiting and maintaining of an appropriate pool of sufficiently qualified internal resources to operate and control FATCA and CRS obligations, or to also look for outsourcing solutions in this respect. Especially smaller and

medium-sized banks may struggle to maintain sufficient internal resources to handle FATCA and CRS obligations multifaceted in all.

Additionally, banks that have QI status necessarily need to make the link between FATCA and QI operations as well, and in particular manage and control the QI agreement obligations (we refer to our separate flyer dedicated to the QI regime in this respect).

### Take care:

- Banks may raise the strategic question of starting to outsource certain FATCA/CRS obligations, such as the annual reporting; and similarly as to certain QI obligations.
- A health check may allow to detect and remediate possible implementation issues as to FATCA/CRS and the QI regime.

## What needs to be done?

A bank qualifying as FI needs to:

- Cover F ATCA and the CRS appropriately in its product descriptions and contractual terms;
- Ensure that clients self-certify their F ATCA and CRS status upon onboarding;
- Issue certain FATCA/CRS notifications towards protected persons in respect of data protection;
- Capture the necessary data to correctly exchange information on reportable persons

and controlling persons of certain entity account holders;

- Have procedures in place to manage and control F ATCA and CRS compliance, which necessarily need to make the link with QI procedures if the bank has such status.

## How can we help?

We can help with:

- Conducting health checks in order to determine whether FATCA and CRS classification and reporting obligations were met (which can be combined with a QI health check);
- Remediating any shortcomings detected during a health check;
- Determining the FATCA and CRS status of new banking products before these go live;
- Reviewing product description and product marketing documents from a FATCA/CRS perspective;
- Assisting with updating the FATCA registration;
- Assisting with review/update of procedures, and documentation used by banks (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.



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