

FREQUENTLY ASKED QUESTIONS- FATCA/CRS

1. What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) is tax information reporting regime, which requires Financial Institutions (FIs) to identify their U.S. accounts through enhanced due diligence reviews and report them periodically to the U.S. Internal Revenue Service (IRS) or in case of Inter-Governmental agreement(IGA), to appropriate government authority.

2. What is CRS?

Common Reporting standard (CRS) is a global level uniform standard for automatic exchange of financial account information. CRS, an initiative of G-20 countries and Organisation for Economic Co-operation and Development (OECD) and is similar to FATCA. Under this standard, jurisdictions would obtain financial information from their financial institutions and exchange that information with other jurisdictions on an automatic annual basis.

3. What is an Intergovernmental Agreement or IGA?

An IGA is a bilateral agreement between a country's government and the U.S. government that facilitates compliance with FATCA. The model agreements enable FIs in the designated jurisdictions to comply with FATCA, especially where privacy laws exist.

4. What is the purpose of FATCA/CRS?

The purpose of FATCA is to prevent U.S. persons from using banks and other financial institutions outside the USA to park their wealth outside U.S. and consequently avoid U.S. taxation on income generated from such wealth. FATCA-CRS oblige financial institutions to report information about U.S. persons having accounts with them.

Similar to FATCA, the purpose of CRS is to aid automatic exchange of information between bilateral treaty partner countries about accountholders/investors maintaining accounts in foreign jurisdictions so as to avoid tax evasions on the funds parked in such countries.

5. Are the FATCA & CRS agreements signed by India?

The Government of India and the United States of America (U.S.) have signed the FATCA Inter-Governmental Agreement (IGA) on 9 July 2015 based on the Model 1 IGA.

India signed up for CRS on June 3, 2015. India is a part of G-20 countries and has also committed itself as one of the early adopter of CRS.

Accordingly, Indian Financial Institutions will be required perform enhanced KYC procedures to identify accounts of US and other foreign taxpayers, as defined, and report on such accounts on an annual basis.

6. Who will be covered under the purview of FATCA and CRS?

FATCA legislation will affect both individual and non-individual customers who are treated as 'U.S. persons' for U.S. tax purposes. The FATCA legislation will also affect certain types of entities with beneficial owners/ controlling persons from U.S. An account having U.S. indicia like U.S place of birth, U.S. address etc. does not necessarily mean that the account would be reported.

With respect to CRS, the coverage would extend to account holders/ beneficial owners or controlling persons of entities, being tax residents of any of the signatory countries.

7. Why does Punjab National Bank have to collect additional information from its customers?

India is committed to the cause of automatic sharing of information. India has also signed the CRS agreement and the FATCA IGA for exchange of information.

Amendments have been carried out in the Income-tax Act, 1961 and Income tax Rules have been notified, to enable enhanced reporting on the part of financial institutions.

8. What are the obligations of Punjab National Bank under FATCA-CRS?

A FI will have to report the required information as per FATCA and CRS regulations and as per the notified Income tax rules, on all accounts (new and pre- existing) identified as 'reportable'. The FIs shall have to perform enhanced due diligence to comply with such reporting obligations. In addition, a FI may also need to report information about customers who do not provide the required information.

9. To whom shall Punjab National Bank report this additional information?

Indian FIs are required to report the information to the Indian Income Tax Department who would then transmit the financial information to the Tax authorities of the relevant countries.

10. How frequently will Punjab National Bank seek information for FATCA/CRS purposes?

FATCA compliance is an ongoing process. A FI shall seek such information for every new on boarding. Further if it were to notice any relevant change in the customer information, it may be required to contact the customers to obtain additional information/documentation so that the FI is able to update its customer account classification under FATCA/CRS. The FIs are also required to remediate their existing customers on a certain cut-off date (30 June 2014 in case of FATCA & 31 December 2015 in case of CRS).

11. What is the information that is being sought from account holders?

The information reported will depend on the classification of the customer under FATCA and CRS. Account holders will be expected to provide details such as Country of Tax residence, Tax Identification Number from such country, Country of Birth, Country of Citizenship, etc. A separate form will be made available shortly, in which existing account holders will have to submit such information.

In case of Non-individual account holders, the above mentioned information of any of the controlling persons will have to be submitted.

Apart from the above, Punjab National Bank would be required to report additional information sought by the local authorities from time to time.

12. Can Punjab National Bank advise the customer on its FATCA CRS status?

The financial institution cannot advise the customer on its classification/ status under FATCA. Please consult your professional tax advisor for further guidance on your tax residency, if required.

13. What is a specified U.S. person?

- The term **"Specified U.S. Person"** means a U.S. Person, other than:

- a corporation the stock of which is regularly traded on one or more established securities markets;
- any corporation that is a member of the same expanded affiliated group, as defined in section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described above
- the United States or any wholly owned agency or instrumentality thereof;
- any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing;
- any organization exempt from taxation under section 501(a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the U.S. Internal Revenue Code;
- any bank as defined in section 581 of the U.S. Internal Revenue Code;
- any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code;
- any regulated investment company as defined in section 851 of the U.S. Internal Revenue Code
- or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64);
- any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code;
- any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code;
- a dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- a broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or
- any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the U.S. Internal Revenue Code.

14. What is the definition of a controlling person?

- Controlling person means the natural person who exercises control over an entity and includes a beneficial owner as determined under sub-rule (3) of rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005.
- In the case of a trust, it means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, the said expression means the person in equivalent or similar position;

15. What is a Financial Institution (FI)?

A FFI is a foreign financial institution, which is any entity that:

- Accepts deposits in the ordinary course of a banking or similar business (Depository institution);
- As a substantial portion of its business, holds financial assets for the account of others and where its attributable to the holding of financial assets and related financial services equals or exceeds twenty percent of its gross income during the three financial years preceding the year in which determination is made or the period during which the entity has been in existence, whichever is less (Custodian institution); or
- that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer, namely:-

- i. trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading; or
 - ii. individual and collective portfolio management; or
 - iii. otherwise investing, administering, or managing financial assets or money on behalf of other persons; or
- the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company, or an entity mentioned above in (i), (ii) or (iii) (Investment entity) .
- Specified Insurance company

16. Will accounts held jointly by a reportable person and a non-reportable person considered as reportable?

A joint account which has one tax resident of a relevant foreign country reportable owner is treated as a reportable account and therefore the entire account is subject to the FATCA/CRS legislation.

17. What if a customer doesn't accept the Terms and conditions or provide the additional documents/information?

It is mandatory for the customers to provide the FATCA/ CRS information & documents sought by the FI.

18. Where can the customer find detailed information on FATCA/CRS?

FATCA and CRS regulations, notices and other related topics are available on the below websites:

- IRS website
<https://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA>
- OECD website
<http://www.oecd.org/tax/exchange-of-tax-information/>
- Income Tax Website
<http://www.incometaxindia.gov.in/pages/communications/notifications.aspx>