



FATCA LEGISLATION & CRS LEGISLATION - NOTE TO THE CUSTOMER

The Italian Decree D.M. of 28th December 2015 has enacted the **mandatory automatic exchange of information in the field of taxation** between States. The regulatory framework is represented by **Law No. 95/2015** and Council Directive 2014/107/EU amending Directive 2011/16/EU.

FATCA

As of 1st July 2014, the US tax legislation known as FATCA (Foreign Account Tax Compliance Act) is in force. The FATCA legislation is intended to **tackle tax evasion, namely, foreign revenues and profits generated by US citizens, namely, US Personsⁱ** (the agreement has been recognized by the Government of Italy on 10th January 2014, by signing the Intergovernmental Agreement IGA model 1, and then ratified by Law No. 95/2015).

The agreement allows the **automatic exchange of information with the United States of America**. Therefore, the **financial intermediaries operating in Italy are required to report to the American tax authorities**, through the Italian Tax Authority (*Agenzia delle Entrate*), **specific personal and financial data pertaining to the customers when there is a proof of evidence, or even just the suspicion, that they are US Persons**.

On the other hand, in case of non-compliance with the FATCA provisions, recalcitrant clients and non-participating institutions shall be applied, in case of certain types of payments having their origin in the United States, a 30 % withholding tax.

As regards individual customers presenting *indicia*, in case the Bank does not obtain a valid self-certification and/or document confirming the status of *Non US Person* declared by the customer, the account shall be reported to the competent US authorities.

The bank, in case of non-compliance, might refuse to execute the payment order or the opening of a new relationship (i.e. current account).

CRS – COMMON REPORTING STANDARD

The CRS legislation, in force as of 1st January 2016, has set out **obligations for Italian financial institutions as regards the acquisition of financial account information pertaining to customers not resident in Italy** (i.e. financial account information including balances, interest, dividends and sales proceeds from financial assets). In response to tax evasion on an international level, the Organization for Economic Co-operation and Development (OECD) has developed an **international standard to improve the automatic exchange of financial information** (Automatic Exchange of Information, commonly known as Common Reporting Standard or CRS).

The CRS takes into consideration the residence for tax purposes in a foreign jurisdictionⁱⁱ.

The Italian financial institution is required to consider the account holder as resident for tax purposes in a foreign jurisdiction for which *indicia* have been found, unless a self-certification proving no residence in the jurisdiction at issue is presented by the customer.

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FATCA/CRS DUE DILIGENCE AND CONTROLS

Banca UBAE SpA, being an Italian Bank established pursuant to the laws of the Government of Italy, is compelled to execute the FATCA/CRS due diligence controls prescribed (identification of FATCA status: US Person; identification of CRS status: customer residing for tax purposes in a foreign jurisdiction).

Therefore, **further to the controls carried out by the Bank, customers are required to sign a specific FATCA/CRS Due Diligence Form along with submitting any relevant documents confirming the status declared.** Customers also agree to provide supporting documentation in case the status declared is not matching the data available in the Bank's database (i.e. status declared is "Non US Person", yet, the place of birth is in the United States. In such case, the customer shall provide the Bank with a copy of his/her "Certificate of Loss of Nationality of the United States" and a self-certification available at the Bank's premises).

CONTACTS

For any information please address your correspondence to poc@ubae.it

i For **FATCA** identification purposes, indicia of **U.S. Person status** are the following:

1. **U.S. citizenship or residence:**
 - a) **U.S. citizen** (U.S. birthplace);
 - b) Holder of a lawful permanent resident (**Green Card**) status;
 - c) **Physically present in the United States on at least:** 31 days during the current year, and 183 days during the 3-year period that includes the current year and the 2 years immediately before that (known as Substantial Presence Test).
 - d) **Fiscal resident** in the U.S. for tax purposes.
2. A **U.S. residence address or a U.S. correspondence address** (including a U.S. P.O. box);
3. A **U.S. telephone number** (regardless of whether such number is the only telephone number associated with the account holder);
4. **Standing instructions** to pay any amounts from the account to an account maintained in the U.S.;
5. An **"in care of" address or a "hold mail" address** that is the sole address with respect to the client;
6. A **power of attorney or signatory authority** granted to a person with a U.S. address.

ii For **CRS** identification purposes, the following *indicia* are to be verified (visit <http://www.oecd.org/tax/automatic-exchange> for an updated list of participating Reportable Jurisdictions namely a jurisdiction that has signed the agreement):

- 1) Identification of the Account Holder as a **resident of a Reportable Jurisdiction**;
- 2) **Current mailing or residence address** (including a post office box) in a Reportable Jurisdiction;
- 3) One or more **telephone numbers** in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution i.e. No Italian phone number;
- 4) **Standing instructions** (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
- 5) Currently **effective power of attorney or signatory authority** granted to a person with an address in a Reportable Jurisdiction **or a "hold mail" instruction or "in-care-of" address** in a Reportable Jurisdiction if the Reporting Financial Institution does not have any other address on file for the Account Holder.
- 6) For **legal entities, place of establishment** in any Reportable Jurisdiction.

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