

## **FINANCIAL & CYBER CRIME PREVENTION**

### **GUIDE ON FATCA AND CRS REPORTING**

*Supervisory observations and common deficiencies identified in reporting  
under the Foreign Account Tax Compliance Regulations 2022 and Common  
Reporting Standard Regulations 2017*



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## 1. Introduction

The Financial Services Regulatory Authority (“FSRA”), through its Financial & Cyber Crime Prevention function (“FCCP”), has identified recurring deficiencies and inconsistencies in reporting under the Foreign Account Tax Compliance Regulations 2022 (“FATCA”) and the Common Reporting Standard Regulations 2017 (“CRS”), together the “Regulations”.

These issues typically arise from:

- misinterpretation of regulatory requirements;
- incomplete or inconsistent application of due diligence procedures;
- over-reliance on onboarding data without ongoing validation; and
- weak governance, oversight, and internal controls over classification and reporting processes.

This guide:

- clarifies categories of accounts that are frequently misreported or omitted;
- sets out common technical and substantive deficiencies observed in FATCA and CRS returns; and
- reinforces regulatory expectations for accurate, complete, and reliable reporting.

Capitalised terms used in this guide have the meaning set out in Section 8, unless otherwise defined or inconsistent with the context.

We recommend that RFIs in ADGM review their practices against the observations and recommendations set out in this guide.

This guide is intended to support RFIs in ADGM with their reporting under FATCA and CRS. It does not amend the obligations of RFIs pursuant to the Regulations. Reading this guide is not a substitute for reading the Regulations and ensuring compliance with them. Changes to the Regulations, relevant legislation, commentary, guidance and international standards may mean that this guide is not up to date with the latest regulatory requirements. This guide does not constitute tax or legal advice.

## 2. Observation 1: Frequently Misreported or Omitted Accounts

The FSRA has identified the following categories of Financial Accounts as being frequently incorrectly excluded from reporting in Annual Returns.

### 2.1 Zero Balance Accounts

A Financial Account with a nil or zero balances at year-end may still be a Reportable Account where:

- the account was open at any point during the reporting period; and
- the account meets the definition of a Reportable Account under the applicable Regulations.

Closure during the reporting period does not remove the reporting obligation. Where a Reportable Account is closed during the reporting period, the account must still be reported in accordance with the applicable Regulations, including the account closure where required.

### 2.2 Accounts Held by Non-Working Individuals

A Financial Account with an Account Holder that is unemployed, a homemaker, retired, a student or otherwise not actively earning income may still be a Reportable Account. Employment status, occupation, income level and/or source of wealth are not determinative factors that determine whether a Financial Account is a Reportable Account pursuant to the Regulations.

Accounts held by individuals, including homemakers or non-income earners, are reportable where:

- the individual is identified as a Reportable Person under the applicable FATCA or CRS framework;
- the individual is tax resident in a Reportable Jurisdiction (or is a Specified U.S. Person for FATCA purposes, where applicable); and
- the RFI has applied the applicable FATCA and CRS due diligence procedures and determined that the account is reportable.

### 2.3 Minor / Children's Accounts

A Financial Account held by a minor may still be a Reportable Account.

### 2.4 Account Holders with Minors as Controlling Persons

Where the Account Holder is an Entity that is a Passive NFE, which can include a trust or other legal arrangement, the RFI should identify Controlling Persons in accordance with the applicable Regulations to establish whether the Financial Account is a Reportable Account.

A Controlling Person can be a minor for the Regulations, and if a Controlling Person is a Reportable Person pursuant to the Regulations, the Financial Account is likely to be a Reportable Account.

## 2.5 Dormant Accounts

Dormancy does not exclude a Financial Account from being a Reportable Account.

RFIs should:

- continue to apply the applicable FATCA and CRS due diligence requirements to dormant accounts; and
- continue reporting accounts that have previously been identified as Reportable Accounts, even if dormant, unless there is sufficient documentation to support a revised classification based on updated due diligence; and
- maintain appropriate records evidencing the basis for any change in the account's classification or reporting status

## 2.6 Reminder: Fundamental Reporting Principle

RFIs should apply the following principle in accordance with the Regulations: any Financial Account is reportable if it meets the definition of a Reportable Account under the applicable Regulations, regardless of the account balance, level of activity, perceived materiality or profile of the Account Holder, unless a specifically referenced exclusion applies.

Whether a Financial Account is a Reportable Account is generally determined by:

- the classification of the Account Holder pursuant to the Regulations;
- the tax residency of the Account Holder and, where applicable, Controlling Persons;
- the outcome of the due diligence procedures performed by the RFI; and
- the correct application of FATCA and CRS due diligence rules and reporting rules.

Whether a Financial Account is a Reportable Account is **not** determined by:

- the account balance;
- the level of transaction activity;
- the commercial value or perceived materiality of the account;
- the employment status or income level of the account holder;
- the nationality or citizenship of the Account Holder (except where relevant under FATCA requirements); or
- whether the account is considered high-value or low-value for commercial purposes.

### 3. Observation 2: Common Reporting Deficiencies - CRS

The FSRA has identified the following recurring issues in CRS Annual Returns.

#### 3.1 Identification and Reporting of Passive NFEs and Controlling Persons

The following failures were identified:

- failure to correctly identify Passive NFEs and all Controlling Persons;
- failure to report Reportable Accounts held by Passive NFEs and/or all related Controlling Persons that are Reportable Persons;
- inadequate assessment of layered ownership structures, trusts, nominee arrangements, and offshore vehicles;
- failure to correctly identify Controlling Person roles, including settlors, trustees, protectors, beneficiaries, ownership controllers, senior managing officials, and other persons exercising control;
- incomplete, inaccurate or inconsistent reporting of Controlling Person information; and
- failure to generate complete and accurate reporting records for all Reportable Jurisdictions.

#### 3.2 Account Classification and Due Diligence

The following failures were identified:

- improper classification of accounts as undocumented due to failures in obtaining, validating, or remediating SCFs;
- continued reliance on outdated classifications despite changes in ownership, control, tax residency, legal form, or account characteristics;
- over-reliance on onboarding classifications, SCFs, or KYC information without appropriate reasonableness checks;
- failure to reconcile due diligence outcomes with information otherwise held by the RFI;
- failure to obtain tax residency information;
- reliance on residence address instead of tax residency;
- failure to identify multiple tax residencies; and
- incorrect TIN collection and validation.

#### 3.3 Account Characterisation and Population Scoping

The following failures were identified:

- misclassification of account types or failure to correctly reflect custody, investment, nominee, structured, joint, or multi-party arrangements;
- submission of a Nil Return despite business activities indicating the potential existence of reportable accounts; and

- failure to identify and report the complete reportable population.

#### 3.4 Reporting Accuracy and Data Quality

The following failures were identified:

- submission of Annual Return containing incomplete, inconsistent, or low-utility data despite meeting XML validation requirements;
- poor alignment between due diligence outcomes and Annual Return; and
- inconsistent application of CRS requirements across business lines, client types, or similar structures.

#### 3.5 Technical Reporting and Correction Deficiencies

The following failures were identified:

- failure to properly submit correction, amendment, or cancellation files;
- creation of duplicate reporting records;
- use of incorrect schema versions, file references, or reporting formats;
- validation failures and poor correction file handling; and
- persistence of reporting inaccuracies across multiple reporting cycles.

These deficiencies may result in a failure to meet reporting obligations under CRS. They may indicate weaknesses in an RFI's governance, controls and/or CRS compliance framework.

## 4. Common FATCA Reporting Deficiencies

The FSRA has identified the following recurring issues in FATCA Annual Returns.

#### 4.1 FATCA Classification and Status Determination

The following failures were identified:

- incorrect classification of Entities, including Participating FFIs, Registered Deemed-Compliant FFIs, Certified Deemed-Compliant FFIs, Nonparticipating FFIs, Exempt Beneficial Owners, Active NFFEs, and Passive NFFEs (all such terms bearing the meaning given in the IGA);
- misapplication of exempt or deemed-compliant status without adequate legal or factual analysis;
- failure to maintain sufficient documentary evidence supporting FATCA classifications; and
- failure to reassess classifications following changes in circumstances.

#### 4.2 Identification of U.S. Persons and Substantial U.S. Owners

The following failures were identified:

- failure to identify and report Specified U.S. Persons (as that term is defined in the IGA) and Reportable Accounts under FATCA;
- failure to identify and report Substantial U.S. Owners (as that term is defined in the IGA) of Passive NFFEs;
- inadequate assessment of complex ownership structures, investment vehicles, trusts, nominee arrangements, and intermediary entities resulting in the failure to identify and report reportable accounts or controlling persons;
- failure to identify and resolve U.S. indicia in accordance with the requirements of the IGA; and
- continued reliance on non-reportable classifications despite unresolved indicia or incomplete remediation.

#### 4.3 Due Diligence and Documentation Procedures

The following failures were identified:

- over-reliance on Forms W-8 and W-9 without appropriate reasonableness testing;
- failure to validate documentation against KYC information, ownership records, account activity, and other information held by the RFI;
- acceptance of incomplete, inconsistent, or outdated documentation;
- failure to monitor and reassess accounts following changes in circumstances; and
- weak controls over undocumented, unreconciled, or exception cases.

#### 4.4 Reporting Population Identification and Reporting Accuracy

The following failures were identified:

- submission of a Nil Return despite business activities or client profiles indicating the potential existence of Reportable Accounts;
- incomplete identification of Reportable Account populations;
- misalignment between due diligence outcomes and Annual Return submissions;
- inaccurate reporting of Account Holder, Controlling Person, GIIN, TIN, or RFI information; and

#### 4.5 Schema-Compliant but Substantively Deficient Reporting

The following failures were identified:

- FATCA files passing XML validation but failing to meet reporting requirements due to:
  - Incorrect record construction;
  - Weak classification logic;
  - Improper population scoping;
  - Invalid record referencing.

The IRS explicitly confirms that schema validation alone does not equate to compliance.

These deficiencies may result in a failure to meet reporting obligations under FATCA. They may indicate weaknesses in an RFI's governance, controls and/or FATCA compliance framework.

## 5. Regulatory Expectations

RFIs are expected to:

- apply FATCA and CRS requirements consistently and in accordance with the applicable legislative, regulatory, and guidance framework;
- establish and maintain policies, procedures, systems, and controls that support effective FATCA and CRS compliance;
- ensure that each reportable account is reported with complete and accurate information; Perform appropriate reasonableness checks to validate Account classifications, SCFs, and supporting documentation;
- maintain robust documentation supporting:
  - account classification;
  - due diligence procedures performed;
  - SCFs and supporting documentation;
  - reporting decisions; and
  - changes in circumstances and any resulting reassessments.
- implement effective governance, oversight, and internal control frameworks;
- monitor and remediate data quality, reporting, and control deficiencies promptly;
- ensure the accurate submission of Annual Returns, corrections, amendments, and cancellations; and
- periodically review FATCA and CRS compliance arrangements to ensure they remain effective and appropriate to the nature, scale, and complexity of the institution's activities.

## 6. Recommendations

RFIs should consider the deficiencies and recommendations set out in this guide and, where necessary:

- conduct a comprehensive review of their account populations;
- reassess Reportable Accounts that have been excluded, classified, or reported incorrectly;
- remediate identified deficiencies in due diligence, documentation, classification and reporting;
- correct and resubmit previously submitted Annual Returns;
- strengthen governance, oversight, and internal control frameworks;
- ensure accurate reporting of account lifecycle events, including account openings, changes in circumstances, and account closures; and

- implement effective quality assurance, monitoring, and escalation processes to identify and address reporting errors on a timely basis.

## 7. Conclusion

The FSRA expects RFIs to adopt a robust approach to FATCA and CRS compliance that extends beyond the mechanical completion of forms and Annual Return submissions.

FATCA and CRS compliance requires the effective application of due diligence procedures, appropriate governance and controls, and accurate reporting.

The FSRA will continue to monitor compliance and may take supervisory or enforcement action where deficiencies are identified.

## 8. Definitions

Capitalised terms in this guide have the following meanings unless otherwise defined or inconsistent with the context.

<b>Term</b>	<b>Definitions</b>
Account Holder	Has the meaning set out in the CRS or in the IGA, as applicable.
ADGM	Means the Abu Dhabi Global Market.
Annual Return	Means the annual submission of reporting data required from RFI's pursuant to FATCA or CRS, as applicable, including a Nil Return.
Controlling Person	Has the meaning given in CRS or FATCA, as applicable.
CRS	Means the Common Reporting Standard Regulations 2017.
FATCA	Means the Foreign Account Tax Compliance Act Regulations 2022.
Financial Account	Has the meaning given in CRS or FATCA, as applicable.
FSRA	Means the Financial Service Regulatory Authority.
GIIN	Means the tax-related number issued by the government of the US.
IGA	Means the intergovernmental agreement between the UAE and the US in relation to the implementation of FATCA, entered into on June 17, 2015.
KYC	Means Know Your Customer procedures.
Nil Return	Means an Annual Return filed by an RFI in accordance with CRS or FATCA, as applicable, reporting no Reportable Accounts.
Passive NFFE	Has the meaning given in the applicable framework under FATCA or CRS, as applicable.
Regulations	Means the CRS Regulations and the FATCA Regulations together.
Reportable Account	Has the meaning given in CRS or FATCA, as applicable.
RFI	Means: <ul style="list-style-type: none"> <li>a) for the purposes of CRS, a RFI as defined in the Common Reporting Standard Regulations 2017; and</li> <li>b) for the purposes of FATCA, a Reporting United Arab Emirates Financial Institution as defined in the IGA.</li> </ul>
SCF	Means a self-certification form collected from an Account Holder or Controlling Persons (where relevant) to determine tax residence(s).
TIN	Means a taxpayer identification number (or functional equivalent in the absence of a taxpayer identification number).
US	Means the United States of America.