
Guide for Validity and Reasonableness Checks on Self- Certification Forms for CRS and FATCA Compliance in ADGM



Definitions

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

Term	Definitions
Account Holder	Has the meaning set out in the CRS or in the IGA, as applicable.
ADGM	Means the Abu Dhabi Global Market.
AML/KYC Procedures	Has the meaning set out in the CRS or IGA, as applicable.
CRS	Means the Common Reporting Standard.
CRS Regulations	Means the Common Reporting Standard Regulations 2017.
FATCA	Means the Foreign Account Tax Compliance Act.
FATCA Regulations	Means the Foreign Account Tax Compliance Act Regulations 2022.
FSRA	Means the Financial Service Regulatory Authority.
IGA	Means the intergovernmental agreement between the UAE and the US in relation to the implementation of FATCA, entered into on June 17, 2015.
OECD	Means the Organisation for Economic Co-operation and Development.
Regulations	Means the CRS Regulations and the FATCA Regulations together.
RFI	Means: <ul style="list-style-type: none"> a) for the purposes of CRS, a Reporting Financial Institution as defined in the Common Reporting Standard Regulations 2017; and b) for the purposes of FATCA, a Reporting United Arab Emirates Financial Institution as defined in the IGA.
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.

This guide provides information on conducting validity and reasonableness checks on SCF collected as part of the due diligence requirements under CRS and FATCA. It is aimed at supporting RFIs in ADGM in achieving compliance with certain regulatory requirements, which in turn supports the integrity of reporting by RFIs. This Guide provides general guidance to RFIs on SCF validation and reasonableness checks. It does not amend the obligations of RFIs pursuant to the Regulations.

This guide is intended to support RFIs in developing their own SCF validity and reasonableness checking procedures. Reading this guide is not a substitute for reading and ensuring compliance with the Regulations themselves. Changes to the Regulations, the CRS, FATCA, or related commentary or guidance may mean that this guide is not up to date with the latest regulatory requirements. This guide does not constitute tax or legal advice.

1. Introduction

The OECD developed the CRS, which came into force in October 2014. The CRS aims to combat tax evasion by establishing a global standard for the automatic exchange of financial account information. The CRS was established in the UAE with effect from 1 January 2017 pursuant to the ratification of various conventions and declarations by the UAE and the publication of Federal Law No. 54 of 2018. ADGM has enacted the CRS Regulations.

FATCA is a federal law introduced by the US in 2010 to target non-compliance by US taxpayers using foreign accounts. FATCA requires financial institutions outside the US to report information on financial accounts held by their US customers to the Internal Revenue Service. The UAE and the US entered into the IGA in 2015, which was ratified by Federal Decree 9 of 2016. The ADGM has enacted the FATCA Regulations.

All ADGM entities, whether regulated by the ADGM Registration Authority or the ADGM Financial Services Regulatory Authority, are subject to the Regulations and will need to assess whether they have compliance obligations under the Regulations.

RFIs play an important role in implementing CRS and FATCA through the filing of reports and undertaking due diligence procedures, including the collection and validation of SCFs.

2. Validity and Reasonableness Checks

General

CRS and FATCA generally require an RFI to obtain SCF(s) for all new accounts.

There are two key requirements when collecting SCFs:

- ensuring the SCF is valid; and
- confirming the reasonableness of the SCF.

RFIs need to have robust processes in place to ensure that valid and reasonable SCFs are obtained.

If an SCF fails validity or reasonableness checks, the RFI must either:

- obtain a new SCF; or
- document the reasonable explanation and documentation supporting the validity and reasonableness of the original SCF.

A valid and reasonable SCF must generally be obtained on “day one” of the account opening process.

In limited circumstances, where a reasonableness check of the self-certification cannot be completed because it is a “day two”¹ process undertaken by a back-office function, it must be checked within a period of 90 days and no later than the deadline for reporting.

Note that, depending on the circumstances, an RFI may need to confirm the tax residence of the Controlling Person(s) of an Account Holder using similar processes/procedures.

3. Requirements for validity

The commentary to the CRS sets out that a self-certification is valid only if it is:

- signed (or otherwise positively affirmed) by the Account Holder or the person with authority to sign for the Account Holder; and
- dated at the latest, the date of receipt, and it contains the details set out below.

¹ [CRS-related Frequently Asked Questions nr 22](#)

“Otherwise positively affirmed”

For the purposes of CRS²:

- An SCF will be considered as “otherwise positively affirmed” if the person making the self-certification provides the RFI with an unambiguous acknowledgement that they agree with the representations made through the SCF.
- In all cases, the positive affirmation is expected to be captured by the RFI in a manner such that it can credibly demonstrate that the SCF was positively affirmed (e.g., voice recording, digital footprint, etc).
- The approach taken by the RFI in obtaining the SCF is expected to be in a manner consistent with the procedures followed by the RFI for the opening of the account.
- The RFI will need to maintain a record of this process for audit purposes, in addition to the SCF itself.

“Details required for validity”

To be valid, an SCF must contain the following details.

1. With respect to New Individual Accounts (as defined in the CRS and FATCA respectively):
 - Full name (first name and surname/family name)
 - Date of birth
 - Residential address
 - All Country(ies) / Jurisdiction(s) of tax residence
 - Tax Identification Number (TIN) or equivalent with respect to each Reportable Jurisdiction (or reason for no TIN, if no TIN has been provided)
 - Signature or ‘otherwise positively affirmed’ (see above)
 - Properly dated, usually the date signed/affirmed but at the latest at the date the SCF is received
2. With respect to New Entity Accounts (as defined in the CRS and IGA respectively):
 - Entity Name in full
 - Operational Address (Street, City and Country)
 - All Country/ies / Jurisdiction(s) of tax residency
 - TIN or equivalent with respect to each Reportable Jurisdiction (or reason for no TIN, if no TIN has been provided)
 - Name, Title or Capacity and Signature or other positive affirmation of the person authorised to sign the SCF on the Account Holder's behalf
 - Fully dated

² [CRS-related Frequently Asked Questions nr 9](#)

In addition, for a SCF for the purposes of FATCA, the SCF must enable the RFI to determine whether or not the Account Holder is a tax resident in the US for tax purposes. If the SCF establishes that the Account Holder is a US tax resident, an RFI must treat the account as reportable for the purpose of FATCA and obtain an SCF that includes the Account Holder's U.S. TIN (which may be an IRS Form W-9 or other similar agreed form).

To facilitate compliance, the FSRA recommends that SCFs include:

- Explicit declaration of US tax residency
- General verification that all applicable sections of the SCF have been completed

To facilitate reporting, RFIs should collect other information as part of onboarding Account Holders that are Entities (whether in the SCF or otherwise), including:

- Date of incorporation
- Country of incorporation
- Registration or license number
- Email address and telephone number

4. Reasonableness check

Once an RFI has obtained an SCF that enables it to determine the Account Holder's residence(s) for tax purposes, the RFI must confirm the reasonableness of that SCF based on the information relevant to the Account Holder's tax residency collected in connection with the opening of the account, including any documentation received pursuant to AML/KYC Procedures.

- ***Legal/ tax advice***

Reasonableness checks do not require an RFI to obtain tax advice or perform a legal analysis to determine tax residency.

- ***"Yes/No" responses with respect to the tax residency***

The CRS permits a SCF to solicit a "Yes/No" response for the purpose of identifying tax residence(s).

Example: In order to complete the SCF, the Account Holder could be asked whether the jurisdiction in which the account is being opened is the sole tax residence of the Account Holder, with additional questions only being asked if the answer is "No".

- ***“Reason to know”***

An RFI may not rely on a SCF if it knows or has reason to know that the information contained on the SCF is unreliable or incorrect, both by reference to the information set out in the SCF and other information collected in connection with opening the account.

- If there is any inconsistency in the information the RFIs hold in relation to an Account Holder, the SCF fails to meet the reasonableness test. In this case, the RFI should either obtain a new valid SCF that also satisfies the reasonableness checks or a reasonable explanation from the Account Holder and further documentation (where necessary) supporting the reasonableness of the SCF.

Example: An RFI receives a SCF from its individual Account Holder, certifying him/her as a UAE tax resident. However, the RFI’s AML/KYC Procedures capture a residence address in Spain. Due to the inconsistent information (UAE tax residency on SCF, Spanish residence address), the SCF fails to meet the reasonableness test. In this case, the RFI should either obtain a new, valid SCF that resolves this inconsistency or a reasonable explanation and supporting documentation (as appropriate) from the Account Holder supporting the reasonableness of the SCF with respect to tax residence(s).

- ***TIN validation***

- a) Generally, an RFI is not expected to conduct comprehensive checks on the issue or validity of TINs for every jurisdiction. An RFI can generally rely on the TINs provided in the SCF or other information collected in relation to the Account Holder.
- b) The OECD's [Automatic Exchange Portal](#) provides information on the issue, collection, practical structure and other specifications of TINs in each participating jurisdiction.
- c) If a TIN is not included in a SCF and the information on the [Automatic Exchange Portal](#) indicates that the relevant jurisdiction(s) of tax residence issues TINs to tax residents, an RFI would have reason to know that the SCF is unreliable or incorrect. In this case, the RFI should seek a new valid SCF with TIN(s) included or a reasonable explanation for why the TIN has not been provided.
- d) As per the [Frequently Asked Questions](#) currently published by the OECD, an RFI is not required to confirm a TIN's format and other specifications with the information provided on the [Automatic Exchange Portal](#). However, an RFI may wish to do so to enhance the quality of the information collected and minimise the administrative burden associated with any follow-up concerning reporting an incorrect TIN.

Example: An RFI receives a SCF from an individual Account Holder, certifying as a Swiss tax resident. However, no TIN has been provided by the Account Holder. The MOF [Automatic Exchange Portal](#) indicates that Switzerland issues TINs to all individuals. Without the TIN or any reasonable explanation as to why it has not been provided, the SCF fails to pass the reasonableness checks. In this case, an RFI would be expected to either obtain a new valid SCF or a reasonable explanation and supporting documentation (as appropriate) supporting the reasonableness of the SCF.

The following is a **non-exhaustive list** of reasonableness checks to undertake on a SCF:

- Completion of all required/mandatory fields of the SCF.
- Verify consistency between the SCF and the information gathered about the Account Holder, including through AML/KYC Procedures.
- Verify the identification proof provided by the Account Holder.
- Investigation of any telephone numbers associated with the Account Holder.
- Verify the current mailing and residential address, including detailed street, city, country, and postal box information.
- Review the validity of the jurisdiction(s) of tax residency declared against other information provided in the SCF and other information held by the RFI.
- If the SCF indicates that the Account Holder has no residence for tax purposes but other documentation on file contains an address, consider if these indicators may impact the reasonableness of the SCF.
- Verify whether the TIN has been provided (and, if not, whether the reason for non-providing TIN has been specified).

5. Additional FATCA and CRS considerations

5.1 Reliability and correctness of SCFs

The RFI may not rely on an SCF if it knows or has reason to know that the SCF or other documents it has been provided with are incorrect or unreliable.

- Where an Account Holder that is an Entity declares itself a “Financial Institution”, the RFI should make reasonable efforts to determine if this classification is accurate by undertaking reasonableness checks. For example, confirming if the Account Holder’s business activities as per their license reflect this status. In the case of FATCA, this could also include checking the [FATCA Foreign Financial Institution List](#) for a GIIN.
- An RFI must consider whether any changes in the Account Holder's circumstances after account opening may affect their tax residency status as understood by the RFI to the extent that a new SCF needs to be sought or reasonableness checks need to be re-performed, e.g. relocation, citizenship changes or a new residential address.
- Residence and citizenship by investment (CBI/RBI) schemes allow individuals to obtain citizenship or residence rights through local investments or against a flat fee. These can often be for legitimate reasons, but they can also be potentially misused to hide assets offshore, and RFIs should ensure their due diligence processes are effective.

- The OECD and the MOF have published guidance and Frequently Asked Questions on **residence and citizenship by investment (CBI/RBI) schemes**. These can be found below.

OECD - [Residence/Citizenship by Investment](#)

MOF - [Residence by Investment and Citizenship by Investment Schemes](#)

5.2 Documentation and Record-Keeping

An RFI must ensure compliance with the following document and record-keeping requirements:

- Retain accurate SCF records and supporting documentation per ADGM Regulation and CRS/FATCA requirements.
- Ensure that all relevant records can be checked or audited to demonstrate compliance with any applicable requirements.
- Documentation should be retained for a minimum of six years from the date of despatch, as stipulated by regulatory authorities and/or CRS/FATCA guidelines.

Please visit our International Tax Reporting [webpage](#), which contains additional information on this subject. ADGM and its Authorities do not, and cannot, provide tax or legal advice. Where necessary, consult your tax, legal or other professional advisor.