



FATCA Compliance Certifications by Responsible Officers

Are you prepared to sign off?



What and when?

RO certifications – Deadline 1 July 2018

While FATCA has become business as usual, the designated Responsible Officer (RO) of a Participating Foreign Financial Institution (FFI) or Reporting Model 2 FFI will soon have to certify their financial institutions' compliance with FATCA by submitting certifications to the Internal Revenue Service (IRS). The following illustrates the requirements for the submission of both one-time and periodic certifications on or before 1 July 2018.

01

One-time certification <§1.1471-4(c)(7)> *

- Completion of the required due diligence identification procedures for pre-existing accounts; and
- After conducting a reasonable inquiry, the FFI did not have any practices or procedures in place to assist account holders to avoid FATCA.

02

Periodic certification <§1.1471-4(f)(3)> *

- Establishment of a compliance program subject to periodic review; and
- Where applicable, proper handling of default events, material failures or non-compliance with FFI agreements.

RO's roles and responsibilities

The RO is the person authorised under applicable laws and regulations to act on behalf of the FFI to represent the FATCA status of the FFI. The RO is charged with overseeing the FATCA framework and certifying compliance with FATCA on behalf of their institutions. The RO's main duties include:

- Certifying compliance of the FFI with FATCA to the IRS
- Establishing a FATCA compliance program
- Notifying the IRS of material failures or non-compliance with FATCA requirements.

Are you ready?

- Are you fully aware of the roles, responsibilities and obligations of an RO?
- Are you comfortable that the current FATCA framework of your financial institution is in line with the prevailing requirements, and that there are no material failures?
- Are you aware of the recent regulatory updates to FATCA, and have the updates been incorporated into your framework?
- Have you conducted periodic reviews on your financial institution's compliance program?
- Have you conducted a reasonable internal inquiry necessary for FATCA certifications?
- Do you know the key steps required for certification in the relevant period?

* As outlined in the FFI Agreement published by the U.S. Department of the Treasury

Impact on financial institutions and ROs

Any breach of FFI requirements, if unattended, may taint the compliance status of your financial institution, potentially prompting counterparties to withhold payments to your financial institution or suspend business relationships.

ROs, who are designated by financial institutions to oversee the FATCA framework and certify compliance with FATCA, may struggle to assess the compliance status of their financial institutions, and determine and collect sufficient supporting evidence to help them substantiate their certifications.

How can KPMG help?

Our range of advisory services provides varying levels of support for your FATCA framework and can be tailored to the specific circumstances of your financial institutions.

Below is an overview of our services relating to RO certification.

01 FATCA health check

- Structured review against the prevailing FATCA requirements
- Defined approach with process walk-through and sample testing
- Pragmatic recommendations
- Optional inclusion of remediation support and post-implementation review

Key benefits

- Suitable for FFIs with limited staffing resources for RO certification and in need of a full range of support from an external consultant
- Independent assessment of FATCA compliance as the basis for RO certification
- Pragmatic recommendations on alignment of policies, procedures and controls with the prevailing FATCA requirements
- Access to industry best practices and subject matter experts with past experience with the IRS
- Advice on remediation to support ground-level execution and drive best practices within the financial institution
- Support for handling non-compliant events or material failures (if any)

02 Compliance program

- Tailored compliance monitoring program with suggested controls and testing steps for ongoing compliance assessment

Key benefits

- Suitable for FFIs with minimal staffing resources that require an external consultant to help strengthen the FATCA framework
- Proprietary program with end-to-end mapping of all prevailing FATCA regulations, control objectives, controls and suggested test steps, enabling relevant business units to independently assess control effectiveness and compliance with FATCA on an ongoing basis
- Sustainable solution enabling FFI to be self-reliant and perform ongoing testing procedures satisfying future FATCA certifications
- Specific guidance on how procedures can be enhanced with consideration of suggested controls in the program

03 RO refresher training

- Training on prevailing FATCA requirements, regulatory updates and points to note for FATCA certification

Key benefits

- Suitable for FFIs with adequate staffing resources looking for regulatory insights into the prevailing requirements
- Access to the latest updates on FATCA and market practices
- Updated understanding of the roles and responsibilities of ROs, and key steps for the certification process

FATCA framework

Our range of services provides coverage of the elements of the FATCA framework, which are necessary for the RO certification process:

Entity and product management

- Entity and product classification
- Entity registration matters
- Product approval and maintenance

Customer due diligence

- Customer onboarding and remediation
- Change in circumstances
- IRS Form W-8 and customer consent

Reporting

- Accuracy, completeness and timeliness of reporting to IRS

Withholding

- Identification of non-participating FFIs and withholdable payments
- Remittance and refunds

Compliance

- Retention of documents and audit trails
- Internal certification and inquiry
- Compliance monitoring program
- RO certification requirements

Contact us

If you foresee any challenges with your upcoming RO certification, please feel free to contact us:



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