

KPMG AEOI Updates & Tracking Service FATCA/CRS Alert

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Alert Type: Document

Country: Vietnam

Regime: FATCA

Document Type: Other Guidance

Vietnam: Released FATCA FAQs for 2021-2022 Reporting

On 15 July 2022, the State Bank of Vietnam (SBV) published FAQs for FATCA, which address questions related to various FATCA compliance aspects for 2021-2022. The FAQs address the following topics:

- Definitions of Preexisting and new account (Q1): The definitions are available in the Intergovernmental Agreement (IGA) – Annexure I – Section VI – B5 and B6.
- Providing Tax Identification Number (TIN) for an account with US substantial owners but held by a non-US account holder and vice versa (Q2): Financial Institutions (FIs) must enter the TIN for both the account holder and the substantial owners if both are US individuals/organizations. FIs will not receive an error notification if one of the two is a US individual/organization and the US TIN is filled in with a valid format for the US individual/organization. Likewise, the foreign tax code (with the field “TIN Issued by” entered as the country code issuing the TIN) must be completed for foreign individuals/organizations. If there is no foreign TIN available for the foreign individual/organization, then the FI can enter its country number in the field “TIN issued by” and the characters “NA” (to represent “Not available”) in the TIN field. An FI will receive a “TIN Not Populated” error if it leaves the TIN field blank for both the account and substantial holders or fills in a blank character in the TIN field.
- Retention period of documents related to FATCA (Q3): The SBV provided a response to the question whether an FI can refer to the IRS Final Regulations § 1.1471-4 – “FFI agreement” requiring that a participating FFI must retain a record of the documentation collected for six calendar years following the year in which the due diligence procedures of this paragraph (c) were performed for the account. The SBV noted that the Internal Revenue Service (IRS) does not provide detailed guidance on this topic. However, the IRS confirms that their International Compliance Management

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Model (ICMM) system stores documents related to FATCA for 10 years prior to removal from the system.

- Reporting account holders who refuse to provide requested information, such as TINs (Q4): If the account holder refuses to provide requested information, FIs must complete due diligence procedures in accordance with Annexure I of the IGA Agreement. Further, pooled reporting is not applicable by Host Country Tax Authorities (HCTAs) in relation to Model 1 Foreign FIs.
- FATCA registration documentation (Q5): The July 2021 FATCA registration user guide can be seen [here](#).
- Implications for FIs if the FATCA certification is not submitted on time (Q6): An FI will be considered non-compliant with FATCA if it fails to submit the requested certificate on time. Consequences of non-compliance may include revocation of the entity's FATCA status and eventually removal of the Global Intermediary Identification Number (GIIN) from the list of Foreign FIs.
- Error notification for TIN filled with conventional codes (Q7): Per IRS instructions, FIs will have 120 days to correct the error from the date of receipt of notice. If the TIN is not provided within 120 days, the IRS will evaluate the data received to determine if there was significant noncompliance. For instance, the IRS will review reasons why TINs could not be obtained; whether FIs have appropriate procedures for collecting TINs; efforts by FIs to collect the TINs etc. If an FI is determined to be significantly non-compliant, the IRS will notify and work with the FI to further review the matter. FIs will have at least 18 months from the date of receipt of notice to correct the errors related to the TIN before the IRS takes stronger actions, such as removing the entity's GIIN from the IRS list of Foreign FIs. An FI without a valid GIIN is at risk of being subject to withholding on payments sourced from the US.

References: [FAQs](#) (DOC 24KB).

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