

KPMG AEOI Updates & Tracking Service FATCA/CRS Alert

Date:	30 June 2023
Alert Type:	Document
Country:	United Arab Emirates
Regime:	FATCA/CRS
Document Type:	Other guidance

United Arab Emirates: Issued Updated Version of Guidance and Policy Manual

On 13 June 2023, the Financial Services Regulatory Authority (FSRA) of Abu Dhabi Global Market (ADGM) issued an updated version (v3.1) of the Guidance and Policy Manual (GPM). The update reflects the FSRA's decision to incorporate the evolution of its enforcement practices and offers more clarity regarding its approach as the regulator of a prominent global financial hub.

The main objective of the updates to the GPM was to provide clarity and establish policies that were previously not included. Furthermore, structural improvements have been implemented in the GPM to enhance its usability. Additionally, the FSRA has included a new chapter (Chapter 11) specifically addressing its enforcement approach regarding International Tax Reporting Regulations (FATCA and CRS).

Chapter 11 includes the following sections:

- Introduction (Section 11.1): The Tax Reporting Regulations align with the UAE's global obligations to facilitate the automatic exchange of tax related information and combat tax evasion. The UAE's regulatory authorities collaborate in implementing and enforcing these regulations, with federal-level penalties applicable in the ADGM. This context shapes the approach to applying and enforcing the Tax Reporting Regulations.
- Investigations (Section 11.2): Specific information gathering powers granted under the Financial Services and Markets Regulations (FSMR) also extend to investigations concerning compliance with Tax Reporting Regulations. In certain cases, initiating an investigation may not be required if the internal referral has supplied adequate information to analyze and ascertain if a violation of the applicable Tax Reporting Regulation has occurred.
- Remedies (Section 11.3): Remedies for breaches of the Tax Reporting Regulations are determined by the financial penalties specified in the corresponding regulations, which are

United Arab Emirates Contact:



Wassim Chahine

Partner, Tax

wchahine@kpmg.com

derived from a federal framework applicable throughout the UAE. The prescribed level of financial penalty is typically defined in the specific Tax Reporting regulations and varies based on the identified breach. However, the FSRA retains the authority to impose supplementary penalties when deemed necessary, such as in cases where the relevant regulations do not stipulate a penalty for the specific violation.

- Penalty Guidance (Section 11.4): The penalty guidance provided in chapter 8 does not apply to violations of the Tax Reporting Regulations, as the applicable regime already specifies the appropriate penalties for each specific contravention.
- Decision-making (Section 11.5): Sections 9.1-9.3 of Chapter 9 generally govern the decision-making process regarding potential violations of the Tax Reporting Regulations. However, it is important to note that the procedure and timeline of issuing or appealing decisions is specifically outlined in the relevant Tax Reporting Regulations. When applied in these circumstances, paragraph 9.3.5 should be interpreted in light of the provisions set forth in the applicable regulations. Accordingly:
 - The notice issued by FSRA, which provides advance notice of proposed action should be considered as an initial decision concerning the alleged contravention and proposed penalty.
 - Any appeal by the affected person to reconsider the decisions can only be made based on the grounds and within the timeframes specified in the Tax Reporting Regulations.
 - An appeal will only be reviewed in accordance with the applicable regulations and a decision will be issued within the timelines specified therein.
 - Any further appeal must adhere to the procedures outlined in the relevant regulations.
- Costs and Publicity (Section 11.6): The provisions of Chapter 7, regarding costs, and Chapter 10, regarding publicity, will apply to enforcement activities concerning the Tax Reporting Regulations.

Reference: [Guidance and Policy Manual](#) [PDF 968KB]

For information on KPMG's global AEOI network professionals, please email [GO-FM AEOI Program Support](#).

For more information on KPMG AEOI Updates & Tracking Service, please see [here](#).

For additional summaries of the latest AEOI developments, please visit KPMG's TaxNewsFlash-FATCA/IGA/CRS Insights page, [here](#).

Contact us

Cyrus Daftary
Principal
+1 212 954 6096
cdaftary@kpmg.com

Laurie Hatten-Boyd
Principal
+1 206 213 4001
lhattenboyd@kpmg.com

www.kpmg.com

kpmg.com/socialmedia



© 2023 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. NDP144698-1A

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

In preparing this information, we consulted tax authorities' official releases that are subject to change, retroactively, prospectively, or both, and any such changes could affect the information stated herein. The advice or other information in this document was prepared for the sole benefit of KPMG's client and may not be relied upon by any other person or organization. KPMG accepts no responsibility or liability in respect of this document to any person or organization other than KPMG's client. The following information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.