

F.No. 504/090/2007-FTD-I
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(Foreign Tax & Tax Research Division)

19th February, 2016

Clarifications for implementation of FATCA and CRS

Currency

For the upcoming reporting in March 2015 and May 2016, all reporting has to be done in INR. For the reporting in 2017, Form 61B and Schema will be suitably modified to include a field for capturing type of currency

New Fixed Deposit account as Preexisting Account

2.1 In banking system, there are procedures where Fixed Deposit (FD) can be opened by an existing customer who is having an existing saving bank account with the same financial institution, without any additional documentation. These fixed deposits are assigned separate account numbers from the existing saving bank account. Therefore, they are classified as new accounts by the banks.

2.2 During stakeholders consultations, representatives of financial institutions informed that in such cases, no additional documentation are obtained for these fixed deposits accounts as they are intrinsically related to existing saving bank account and all KYC documents are available for the existing saving bank account.

2.3 In these cases, where no additional documentation are required for certain FD accounts, financial institution may treat the new FD account as pre-existing account subject to the following conditions:

- a. the saving bank account is opened on or before 30.06.2014 in the case of FATCA and 31.12.2015 in the case of CRS ;
- b. the due diligence requirements have already been carried out or are in the process of being carried out for the preexisting saving bank account and
- c. the accounts are treated as linked or as a single account or obligation for the purposes of applying any of the due diligence requirements and reporting.

2.4 The above situation will also be applicable to Auto sweep facility linked to existing saving bank account.

Global Custodian and Local Custodian

3.1 It was submitted by financial institutions that majority of the accounts opened in India by foreign investors, including Foreign Portfolio Investor (FPI), are contracted through Global Custodians (GCs) who in turn appoint or contract with Local Sub Custodians in India to facilitate registration and investments of these foreign investors in India. Query was received whether Local Sub-custodian may apply due diligence procedure only on the GCs and not on the GCs end-clients.

3.2 It has been decided that Local Sub-custodian are required to carry out the due diligence on the accounts held by GC end-clients. However, for carrying out due diligence, the Local Sub-custodian may rely on the KYC/FATCA/CRS documentation done by GC for the account holders including the self-certification. Further, it may be clarified that the obligations for due diligence and reporting remain that of the Local Custodian who should also be able to access all documents in relation to an account holder.

HUF

4.1 Several queries have been received regarding due diligence of HUF accounts. The issue is whether due diligence may be conducted either only on the Karta or on all coparceners alongwith Karta.

4.2 In this regard, it has been decided that for the purpose of compliance, an HUF account shall be treated as an entity account. The due diligence of HUF accounts will be same as prescribed under PMLA/ KYC procedures.

NBFC

5.1 Queries have been received regarding reporting by NBFC whether they are depository institution or investment entity.

5.2 In this regard, it has been decided that an NBFC which accepts deposit in the course of a banking business or a similar business as mentioned in the definition of depository institution will be considered as Depository Institution and will report accordingly. An NBFC which is working as investment entity, will report accordingly.

Procedure for furnishing the report

6. Presently the procedure for registration and submission of report under FATCA and CRS is as per Notification No. 4 dated 4th September, 2015 issued by the Principal Director General of Income Tax (Systems) which is available on the website of Income tax Department incometaxindia.gov.in. However, the procedure for registration and submission of report is being revised and the same will be made available on the website referred above as and when rolled out.