

FATCA & CRS update: CBDT issues clarification for FATCA & CRS implementation in India

In brief

During 2015, the Indian revenue authorities had amended the Income-tax Rules, 1962 to introduce the system of Foreign Account Tax Compliance Act (FATCA) and the Common Reporting Standard (CRS) reporting in India (for the notified rules on FATCA reporting, you may refer to our [news alert dated 11 August 2015](#)), and subsequently, had released guidance note for the same on 31 August 2015.

On 31 December 2015, the Indian revenue authorities issued a more detailed guidance note on implementation of FATCA and CRS reporting requirements, to provide more clarity on the specific definitions and related implementation guidelines, with illustrative examples for the benefit of Indian Financial Institutions (for the highlights of the updated guidance note, you may refer to our [news alert dated 07 January 2016](#)).

Today, the Indian revenue authorities have issued a further clarification, which provides guidance on implementation of FATCA and CRS in India. This news flash provides an overview of the key issues clarified by the Indian revenue authorities in the clarification note.

In detail

The key issues clarified in the clarification note are as follows:

- **Reportable Currency:**
Upcoming reporting for May 2016 has to be done in INR. Form 61B and Schema would be suitably modified to include a field for capturing type of currency for reporting in 2017.
- **Treatment of New Fixed Deposit (FD) Accounts as Pre-existing Accounts:**
The Reporting Financial Institution may treat the new FD account (opened by existing customer having savings bank account with them) as pre-existing account, subject to the following conditions:
 - a. the savings bank account is opened on or before 30 June 2014 in the case of FATCA, and 31 December 2015 in the case of CRS;
 - b. the due diligence requirements have been carried out, or are in the process of being carried out, for the pre-existing savings 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
- **Due Diligence obligations in case of accounts opened with local custodian through Global Custodian (GC)**
It has been clarified that the local Sub-custodians are required to carry out the due diligence of the accounts held by the global custodian's end-clients.

However, for carrying out due diligence, the local sub-custodian may rely on the KYC/ FATCA/ CRS documentation done by the GC for the account holders, including the self-certification.

The ultimate obligation for due diligence and reporting would lie with the local custodian, who should also be able to access all documents in relation to an account.

- **Due diligence of HUF Accounts**
It has been clarified that a Hindu Undivided Family (HUF) account shall be treated as an entity account for the purpose of FATCA/ CRS reporting.

The due diligence of HUF accounts will be same as prescribed under PMLA/ KYC procedures.

- **Would a Non-banking financial company (NBFC) qualify as a financial institution?**

It has been clarified that an NBFC that 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 is required to report accordingly.

An NBFC which is working as an investment entity is required to report accordingly.

- **Procedure for furnishing the FATCA/ CRS report**

The CBDT is currently in the process of revising the current procedure for registration and submission of FATCA/ CRS reports, and will soon notify the updated procedures.

If your interest lies in a specific area or subject, do advise us so we can send you only the relevant alerts. For any additional information, please reach out to your PwC relationship manager or write in to ***pwctrs.knowledgemanagement@in.pwc.com***

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