

Foreign Account Tax Compliance Act ("FATCA") & Common Reporting Standard ("CRS") Update Alert

March 2022



In December 2021, the Inland Revenue Authority of Singapore ("IRAS") announced some updates in relation to both FATCA and CRS penalties and other FATCA and CRS compliance obligations on their webpages. The following summary provides a brief overview of how these updates may affect you and your business.

OBJECTIVE OF CRS AND FATCA

Both legislations are to detect and deter tax evasion by taxpayers through the use of offshore bank accounts. FATCA targets US persons, whereas CRS targets tax residents outside of the US and Singapore.

KEY UPDATES TO FATCA & CRS

Below are the critical updates on 1 December 2021 that we would like to bring to your attention.

► Increased Penalties for FATCA and CRS Regulation and Filing Offences:

- With effect from 16 November 2021, the penalties for FATCA and CRS non-compliance and non-filing offences have been increased to \$5,000 upon conviction, and a further fine of \$100 per day for a continuing offence. Non-compliance with FATCA and CRS is an offence under Income Tax Act and is subjected to the following penalties:

Offences	Penalties
<ul style="list-style-type: none"> Failure to register Failure to report all Reportable Accounts or file a Nil Return 	<ul style="list-style-type: none"> Fine not exceeding \$5,000 and in default, an imprisonment term not exceeding 6 months; and Fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.
<ul style="list-style-type: none"> Failure to perform due diligence on all Financial Accounts Failure to comply with any other requirement imposed 	<ul style="list-style-type: none"> Fine not exceeding \$1,000 and in default, an imprisonment term not exceeding 6 months; and Fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction.
<ul style="list-style-type: none"> Provision to IRAS any document which contains any information or any information known to be false or misleading 	<ul style="list-style-type: none"> Fine not exceeding \$10,000 and/or Up to 2 years imprisonment.
<ul style="list-style-type: none"> Enters into an arrangement or takes an action in order to circumvent any obligations under the CRS 	<ul style="list-style-type: none"> IRAS may disregard the arrangement or action under Section 105MA of the Income Tax Act. Thereafter, appropriate CRS obligation shall then apply accordingly.

FOR MORE INFORMATION

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► **Voluntary Disclosure of Errors and Reporting of Non-Compliance:**

- IRAS understands that Reporting SGFIs may occasionally make errors in their FATCA and CRS obligations. IRAS recognises Reporting SGFIs that come forward voluntarily with respect to errors in their FATCA and CRS obligations and would work closely with the Reporting SGFIs to support them in meeting their obligations.
- IRAS encourages reporting of any potential non-compliance that any person is aware of, including the use of abusive schemes to avoid reporting under the FATCA and CRS regulations or intentional provision of false reporting to IRAS. There is a dedicated channel where such reports on FATCA and CRS non-compliance can be made to IRAS. Information provided may be on an anonymous basis.

Our Commentary:

Whilst FATCA and CRS legislation has been in existence in most jurisdictions for the past four years or more, it remains as important now as it did when it was first introduced.

On 23 July 2019, the Inland Revenue Authority of Singapore (IRAS) published the first edition of its CRS Compliance Guidelines to assist Financial Institutions ("FI") in Singapore to comply with their CRS compliance obligations. Following the release of the CRS Compliance Guideline, IRAS has been and still is conducting risk reviews on Reporting Singaporean FIs ("Reporting SGFIs") and those entities not registered as Reporting SGFIs.

The nature and intensity of IRAS' CRS compliance reviews will depend on IRAS' assessment of the certain risk factors. This can range from a desk-based review such as completing questionnaires and responding to specific queries provided by IRAS, to an on-site review where IRAS will visit your office premise, conduct a review of your processes and documentation, and interview with the relevant personnel.

We expect the number of risk reviews by IRAS to increase as COVID-19 situation improves and a shift from CRS filings to the compliance reviews in line with these updates on increased penalties for non-compliance.

YOUR NEXT STEPS

All clients and SGFIs are strongly encouraged to ensure that:

- all your entities/companies' have been assigned an appropriate FATCA and CRS entity classification;
- there is sufficient documentation (e.g. a memo from external consultant) to support the FATCA and CRS entity classification;
- the entity has been registered and filed their FATCA and CRS returns annually if identified to be a Reporting SGFI; and
- proper processes and procedures are in place to demonstrate your compliance with due diligence and reporting obligations as a Reporting SGFI.

HOW CAN BDO HELP?

We have a dedicated and experienced team that has a deep understanding of FATCA and CRS regulations. We will work with you to make your FATCA & CRS compliance journey as easy as possible for your organisation.

We have also developed a systematic and comprehensive review approach which allows BDO professionals to deliver an efficient, time and cost-saving assessment and minimize any disruption to your business activities.

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