

## **FATCA AND CRS COMPLIANCE**

In October 2016, two laws were passed in Panama, with the purpose of adapting to the international standards in matters of tax cooperation and transparency.

Act No. 47 of 2016 which was enforced on October 24th, 2016, approved the intergovernmental agreement between the governments of the Republic of Panama and United States (IGA), with the purpose of executing the Foreign Account Tax Compliance Act (FATCA), which main goal is to report to the United States the information regarding financial accounts held by US citizens, residents and companies incorporated in the United States and passive entities which have US shareholders.

Act No. 51 was enforced on October 28th, 2016, it sets forth the regulatory framework of the Common Report Standard (CRS) for the implementation of information exchange in regard to tax purposes by the OECD. CRS asks for the jurisdictions to obtain information about the tax residents in foreign jurisdictions of its financial institutions and to exchange that information with such jurisdictions.

Unibank, S.A. and its subsidiaries are committed to the compliance with the exchange of information related to Financial Accounts pursuant to CRS and FATCA, thus defined policies and procedures have been implemented on such regulations.

## **FATCA FAQs**

### **What is FATCA?**

FATCA (Foreign Account Tax Compliance Act) is an US Act, which main purpose is to identify American taxpayers that use financial accounts outside US soil for tax avoidance. This Act is enforced from July 1st, 2014, and Panama, as well as other countries, has signed an Intergovernmental Agreement (IGA) with USA, for the compliance with such Act.

### **What is an IGA?**

IGA is an Intergovernmental Agreement that represents an association agreement between USA and a jurisdictions in compliance with FATCA, by means of an Agreement or bilateral contract between countries. IGA facilitates partner countries to comply with the provisions of FATCA. Panama begins to be part of the list of countries in process of signing an IGA - Model 1<sup>a</sup> (mutual model), on May 2<sup>nd</sup>, 2014.

### **What is the IRS?**

It is the Internal Revenue Service of the United States of America for tax payment of US citizens (IRS = Internal Revenue Service).

### **Who is considered a “US person” by FATCA?**

Any person born on US soil or in any of its territories: Puerto Rico, Northern Mariana Islands, US Virgin Islands, Guam and American Samoa, with the exception of those that have renounced US citizenship.

US citizens. US Legal residents (including those having a “Green Card”).

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People complying with the conditions of the substantial presence test (more than 31 days in the current year and 183 days or more in the last 3 years).

Corporations or properties or trusts incorporated under US laws.

**I AM not a “US person”, what does FATCA mean to me?**

For the compliance with the Act, we are required to ask you for additional information during the process of account opening, with the purpose of confirming that you are NOT a “US Person”

**I am a “US Person”. What does FATCA mean to me?**

If you are a “US person” you shall fill out Form W-9 and deliver it to Unibank so it may be attached to your file. Your information may be shared with the competent local authority if some conditions are established in the Intergovernmental Agreement (IGA) that has been signed by several countries with USA, including Panama, in regard to FATCA.

Likewise, in case of evidence of US citizenship\*\*, and from its territories, the clients shall fill our Forms W8 or W9 (born in US)

\*\*It is understood as evidence of US citizenship when:

It is appointed the account holder as US citizen or resident.

His/her place of birth is USA.

His/her residence address is in USA or Post Address in USA, (including a PO. Box in USA)

It is indicated a phone number in USA, and no non-USA number is detailed.

When he/she provides instructions for funds transfer to a US account.

**Wouldn't be my banking information confidential anymore from now on?**

Unibank and its subsidiaries, have a strict policy of confidentiality and data protection of its clients. However, Panama has signed an Intergovernmental Agreement (IGA) with USA, therefore, every information report, if there was any, shall be carried out in accordance to what is allowed by the laws and local regulations.

**Do you require my consent in order to share my information?**

In countries having signed or in process of signing an IGA with USA, (as it is the case for Panama) in connection to FATCA; the report to authorities, when it applies, shall be a legal requirement, and without the obligations of requesting the consent from the client.

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**What happens if I refuse to answer any question related to FATCA or to fill out the forms in connection to FATCA?**

In case you choose not to answer the information required by FATCA regulation, the actions to be followed shall be adjusted to the legal regulation and to applicable banking and tax regulations. In countries as ours, which is in the process of signing an IGA with USA in connection to FATCA; subject to local regulation to allow it, the product or service requested might not be offered, since the requirements of this regulation are mandatory.

**I am a US Citizen, but I haven't lived there for years, or I have never lived in USA, does FATCA applies to me?**

Yes. A US citizen living abroad fits into the definition of "US Person". If you are not sure about your tax obligations to USA, we suggest to consult a qualified profession on tax matters.

**I have a joint account with a "US Person", should this account be reported?**

A joint account where one or more "US Persons" are involved shall be referred to as an account that may be subject to report, independently of the person fining the account. FATCA regulations treat each account holder as beneficiary of the whole account. If one or more account holders are identified as US Persons, each of these account holders shall be allocated with the total balance of the account.

**Does FATCA only apply to personal bank accounts?**

No. FATCA regulations apply to different types of financial accounts, for example: some commercial or business accounts, insurance contracts and investment accounts – among others.

**Where may I find further information?**

<https://www.irs.gov/businesses/corporations/fatca>

[https://www.gacetaoficial.gob.pa/pdfTemp/28145\\_A/GacetaNo\\_28145a\\_20161024.pdf](https://www.gacetaoficial.gob.pa/pdfTemp/28145_A/GacetaNo_28145a_20161024.pdf)

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## CRS FAQs:

### What is CRS?

Common Report Standard (CRS) is the global standard for the Automatic exchanges of information in regard to Financial Accounts (AEOI) developed by OCDE, approved on July 15<sup>th</sup>, 2014.

CRS is a wide report system supported by the approach of intergovernmental exchange used by the implementation of FATCA.

### To whom does CRS apply CRS?

Natural resident persons for tax purposes of a participant jurisdiction.

Legal entities for tax purposes of a participant jurisdiction.

Passive entities having control persons, tax residents of a participant jurisdiction.

### How do I comply with CRS?

In order to comply with CRS, it is needed filling out the self-certifications, establishing the number(s) of tax identification (TIN) of the different jurisdictions, as it may apply.

### How is tax residence defined?

This will depend on the following circumstances:

Permanent residence country.

Country of usual residence.

Country from which citizenship is held (it will depend on the country).

### What is TIN?

Acronym that stands for Tax Identification Number, It is also known by other names:

NIF: Tax Identifications number

RUC: Single Registration for Taxpayers

NIT: Tax Identification number

CPF: Registration of Physical Person

CUIT: single code of Tax identification

### Where can I find more information?

<http://www.oecd.org/tax/exchange-of-tax-information>

[https://www.gacetaoficial.gob.pa/pdfTemp/28149\\_B/GacetaNo\\_28149b\\_20161028.pdf](https://www.gacetaoficial.gob.pa/pdfTemp/28149_B/GacetaNo_28149b_20161028.pdf)

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