

GENERAL

What is FATCA?

The Foreign Account Tax Compliance Act (FATCA) is a statute of the United States of America ("US"), geared at combatting tax evasion by US persons who utilize such means as holding investments in offshore accounts and or entities.

In March 2010, the US passed FATCA. Among its many requirements, FATCA requires all foreign financial institutions ("FIs") around the world to identify and report certain information on customers who are Specified US Persons (whether or not they are the primary account holders) and Recalcitrant Customers.

The governments of Trinidad & Tobago and the US reached an agreement in substance to enter into a Model I Inter-Governmental Agreement ("IGA") which, among other things, provides for Trinidadian FIs to transmit the required information to the Competent Authority which will in turn submit the information received to the US Internal Revenue Service ("IRS").

Purpose

FATCA requires all non-US financial institutions [foreign financial institutions ("FFIs")] around the world to:

- a. each enter into an agreement with the US IRS,
- b. collect certain information on all new and existing accounts they hold for US persons,
- c. report information in relation to certain US persons to the IRS, and
- d. withhold and pay over to the IRS 30% on certain payments of US source income, as well as gross proceeds from the sale of stocks or securities that generate *US source income*, made to:
 - Non-participating FFIs (which are FFIs that have not entered into an FFI agreement with the IRS. By declining to participate, such institutions are (among other things) refusing to: report information on certain US persons, implement procedures to identify US persons, and withhold on U.S. source income to recalcitrant accounts holders and non-participating FFIs.),
 - Individual account holders failing to provide sufficient information to determine whether or not they are a US person (recalcitrant account holders), or

- Foreign entity accountholders failing to provide sufficient information about the identity of their substantial US owners (also classified as recalcitrant).

What is an Inter-Governmental Agreement?

In order to lessen some of the requirements of the FATCA legislation, the Government of the US and the governments of other countries have signed Inter-Governmental Agreements. Under the Model 1 IGA, local FFIs will report information on US persons to a local authority which in turn will provide this information to the US under an automatic exchange of information.

Some other advantages of having an IGA in place include:

- a. Reduction in some of the costs, complexities and legal issues associated with achieving FATCA compliance,
- b. Removal of the 30% withholding,
- c. Removal of the 30% withholding on U.S. income of Trinidadian FFIs,
- d. Greater alignment with existing Know Your Customer requirements.

Who will be affected?

In addition to FFIs, Specified US persons will be affected. This includes:

- a. Citizens residing in the US or overseas,
- b. Green card holders,
- c. Passport holders,
- d. "Tax residents" or persons who have stayed in the US for several consecutive days during the past three years. To meet this requirement, one must be physically present in the US on at least:
 - i. 31 days during the current year, and
 - ii. 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
 - All the days you were present in the current year, and
 - 1/3 of the days you were present in the first year before the current year, and
 - 1/6 of the days you were present in the second year before the current year.

- e. A partnership or corporation organized in the US or under the laws of the US or any State thereof,
- f. a trust if:
 - i. a court within the US would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and
 - ii. one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States.

Who are “recalcitrant account holders”?

This refers to account holders who fail to comply with any request by an FFI to provide documentation and/or information required to determine the status of their accounts (i.e. US or non-US accounts). As a consequence of this classification, FFIs are required to report the customers as recalcitrant. Customers who allow their accounts to become recalcitrant may also see their financial institutions giving serious consideration as to the future of the business relationship.

What will be the impact of FATCA on our customers?

To align with the requirements of FATCA, National Commercial Bank Jamaica Limited (NCB) and some of its subsidiaries¹ made changes on July 1, 2014, and January 1, 2015, in the case of individuals and entities respectively, to our account opening procedures, in particular the information that we collect to satisfy our Know Your Customer (KYC) procedures.

Do customers have to consent before their accounts information can be shared?

NCB operates in full compliance of existing statutes and is therefore barred from the disclosing customers' information and documentation in any manner that is contrary any existing law. Where a country has entered into an IGA with the US government, reporting of customers' information would be required by law.

I am a non-US person who was told that U.S. indicia were seen on my account. What are these and what does this mean?

In the event that an account holder has indicated that s/he is a non-U.S. person and one or more U.S. indicia have been identified on the customer's record or there is a change in circumstances, the financial institution would be required to obtain specific documentation and information for the type of U.S. indicia seen. This is in a bid to obtain the tax residency status of the account holder.

The required information and document can either be obtained from the account holder's records (if available) or from the account holder.

The list of U.S. indicia along with the required information and documentation are shown below.

U.S. INDICIA	CURING DOCUMENTATION & INFORMATION
<p>1. U.S. place of birth</p>	<p>a. Form W-8BEN, which is a self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes;</p> <p>b. Non-U.S. passport or other government-issued identification evidencing the Account Holder’s citizenship or nationality in a country other than the United States (U.S.); AND</p> <p>c. A copy of the Account Holder’s Certificate of Loss of Nationality of the U.S. or a reasonable explanation of:</p> <ul style="list-style-type: none"> i. the reason the Account Holder does not have such a certificate despite relinquishing U.S. citizenship; or ii. The reason the Account Holder did not obtain U.S. citizenship at birth.
<p>2. Current U.S. mailing or residence address</p> <p>3. One or more U.S. telephone numbers that are the only telephone numbers associated with the account</p> <p>4. Standing instructions to transfer funds to an account maintained in the U.S.</p>	<p>For U.S. Indicia # 2 – 4 the following would be required:</p> <p>a. Form W-8BEN, which is a self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes; AND</p> <p>b. Documentary evidence establishing the Account Holder’s non-U.S. status such as:</p> <ul style="list-style-type: none"> 1. A certificate of residence issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident; 2. Any valid identification issued by an authorized government body (for example, a government or agency thereof, or a municipality), that includes the individual’s name and is typically used for identification purposes; 3. Any financial statement, third-party credit report, bankruptcy filing, or U.S. Securities and Exchange Commission report;

U.S. INDICIA	CURING DOCUMENTATION & INFORMATION
<p>5. A currently effective power of attorney or signatory authority granted to a person with a U.S. address,</p> <p>6. "In-care-of" address or "hold mail" address that is the sole address identified for the Account Holder,</p> <p>7. One or more U.S. telephone numbers (if a non-U.S. telephone number is also associated with the account)</p>	<p>For U.S. Indicia # 5 – 7 the following would be required:</p> <p>a. Form W-8BEN, which is a self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes; OR</p> <p>b. Documentary evidence establishing the Account Holder's non-U.S. status such as:</p> <ol style="list-style-type: none"> 1. A certificate of residence issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident; 2. Any valid identification issued by an authorized government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes; 3. Any financial statement, third-party credit report, bankruptcy filing, or U.S. Securities and Exchange Commission report;

For entities, what are U.S. indicia and what does it mean when my financial institution states that U.S. indicia were seen on an account of the entity?

In the event that an entity indicates that it is a non-U.S. person and one or more U.S. indicia have been identified on its record or there is a change in circumstances, the financial institution would be required to obtain specific documentation and information for the type of U.S. indicia seen. This is in a bid to obtain the tax residency status of the entity.

The required information and document can either be obtained from the account holder's records (if available) or from the account holder.

The list of U.S. indicia along with the required information and documentation are shown below.

US INDICIA	DOCUMENTATION & INFORMATION
<p>a. Classification of an Account Holder as a U.S. resident in the current customer files [];</p> <p>b. Current U.S. mailing or residence address [];</p> <p>c. Current telephone number for the entity in the U.S., but no telephone number for the entity outside the U.S. [];</p> <p>d. Current telephone number for the entity in the U.S. in addition to a telephone number for the entity outside the U.S. [];</p> <p>e. Standing instructions to pay amounts to U.S. address of or an account maintained in the U.S. [];</p> <p>f. Power of attorney or signatory authority granted to a person with a US address [];</p> <p>g. An 'in care of' or 'hold mail' address that is the sole address provided for the entity [].</p>	<p>A. Completed FATCA Entity Certification form [Mandatory] []; AND</p> <p>B. <u>one other documentary evidence listed below</u> which establishes the entity's non-U.S. status such as:</p> <p>1. Any official documentation issued by an authorized government body (for example, a government or agency thereof, or municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction (or U.S. Territory) in which the Entity was incorporated or organized, example - Certificate of Incorporation [] <i>State the name of the document received</i> ;</p> <p>2. Any financial statement, third party credit report, bankruptcy filing, or U.S. Securities and Exchange Commission report [] <i>State the name of the document received</i>;</p>

Global Intermediary Identification Numbers of NCB

National Commercial Bank Jamaica Limited and the other FFIs in the Group have registered with the IRS and have each been assigned the Global Intermediary Identification Number (GIIN) shown below. Further persons wanting to verify any of these GIIN may visit the IRS website at <http://apps.irs.gov/app/fatcaFfiList/flu.jsf>

Name of Filer	Number, street, and room or suite no.	City or town	Country (including postal code)	GIIN
NCB Global Finance Limited	68 Ariapita Avenue Woodbrook	Port of Spain	Trinidad	6INUGC.99999.SL.780

What is a GIIN?

A GIIN is an identification number assigned to certain FIs by the IRS as part of their FATCA registration and compliance process.

Additional Information

Should you require further clarification our Relationship Managers at our Ariapita Avenue office, which can be contacted at 1-868-622-4234 stand ready to serve you. Talk to us today or visit the Internal Revenue Services' website at www.irs.gov for more information.

We continue to enjoy an exceptional relationship with you and thank you for selecting NCB as your financial services partner of choice. We hope that together, we can help you to Put Your Best Life **Forward**.

Disclaimer

NCB has made considerable effort to ensure accuracy of the information provided herein. NCB will not accept any liability as a result of any error, inaccuracy or omission of information provided.

NCB wishes to emphasize that we do not offer tax advice services and encourage persons wanting to know more about FATCA and its implications to consult a tax expert and or an attorney.

INDIVIDUALS

In order to align our operations with the requirements of FATCA and the IGA, National Commercial Bank Jamaica Limited and some of its subsidiariesⁱⁱ on **July 1, 2014**, made changes

to our account opening procedures in relation to individual customers. Further, we may be required to contact you in order to update your records.

Who are “Individuals”?

Natural persons and sole traders are considered individuals.

What information is reported to the Competent Authority?

This includes:

- a. Name, address, and US tax identification number of each Specified US Person/Recalcitrant Customer;
- b. Account number;
- c. Account balance/value as at the end of the calendar year or immediately before closure if the account was closed during the calendar year;
- d. Gross interest/dividends, and interest and other income credited to the account.

***Please note that this information is being provided for your general awareness of the developments that have been occurring as a result of FATCA regulations. It does not mean that we have determined that there are any reporting requirements applicable to you and your accounts.**

ENTITIES

In order to align our operations with the requirements of FATCA and the IGA, National Commercial Bank Jamaica Limited and some of its subsidiariesⁱⁱⁱ on January 1, 2015, made changes to our account opening procedures in relation to entity customers, in particular the information and documentation that we are collecting to satisfy our Know Your Customer procedures. Further, we may be required to contact you and other existing customers in order to update our records.

What are Entities?

These are legal persons or legal arrangements. This includes corporations, partnerships and trusts. It does NOT include sole proprietorships, which are instead classified as Individuals.

What information is to be reported to the Competent Authority?

This includes:

- a. In the case of a Non-US Entity having one or more Controlling Persons that is a Specified US Person, the name, address, and US tax identification number (if any) of such entity and each Specified US Person;
- b. In the case of a Recalcitrant Customer, the name, address and US tax identification number;
- c. Account number;
- d. Account balance/value as at the end of the calendar year or immediately before closure if the account was closed during the calendar year;
- e. Gross interest/dividends, and interest and other income credited to the account.

***Please note that this information is being provided for your general awareness of the developments that have been occurring as a result of FATCA regulations. It does not mean that we have determined that there are any reporting requirements applicable to you and your accounts.**

Who are “Controlling Persons”?

The natural persons who exercise control over an Entity.

Determining the Controlling Persons for:

Legal Persons (such as incorporated companies):

- a. The controlling persons include the natural persons (*human beings*) who ultimately have a controlling ownership interest in a legal person; and
- b. The natural persons (if any) exercising control of the legal person or arrangement through other means if there is doubt as to whether the person(s) with the controlling ownership interest are the beneficial owner(s), or where no natural person exerts control through ownership interests.

Legal Arrangement:

In the case of a trust:

- a. Consider the identity of the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust since these are the possible controlling persons. In determining the controlling persons, trusts must be considered on a case-by-case basis.

In the case of a legal arrangement other than a trust (e.g., partnership):
the persons in equivalent or similar positions to those identified for trusts (for partnerships, the partners and managers may be controlling persons).

ⁱ NCB Capital Markets Limited, NCB Insurance Company Limited, West Indies Trust Company Limited, NCB (Cayman) Limited, NCB Capital Markets (Cayman) Limited, and NCB Global Finance Limited.

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