



**Tax Identity Information For  
Your Concern**

# What is Global Information Reporting (GIR)?

The Foreign Account Tax Compliance Act (FATCA) was issued in the U.S. on 18th March 2010, while in Kuwait FATCA is being addressed under law no. 109 of 2015 and related Ministerial decrees. FATCA requires all non-U.S. financial institutions (Foreign Financial Institutions or FFIs) to identify, document and report on U.S. accounts.

All local and international financial institutions working in and out of Kuwait are expected to comply with FATCA, based on local legislations and commercial perspectives. Any institution or client that does not comply risks regulatory violations, financial loss and isolation from the global financial system.

## What is the purpose of FATCA?

FATCA was established to gain information about U.S. taxpayers' accounts worldwide, improve global transparency and combat tax evasion, so that banking privacy becomes a commitment that does not conflict with the principle of tax transparency.

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**worldwide**

## **According to FATCA, who is considered a U.S. person?**

An individual is considered a “U.S. person” if the individual has any of the following indicia and did not officially withdraw\* the U.S. person status with the US authorities:

### **First: In relation to Individuals:**

- A U.S. citizen or holds a U.S. passport (sole or dual or multiple)
- Was born in U.S.
- Permanent Resident or Lawful Permanent Resident (Green Card/Registered Alien)
- A U.S. taxpayer for any other reason

### **Second: In relation to non-individuals (companies and legal entities):**

- Place of incorporation or place of active management is U.S.
- Branch of a U.S. entity
- Passive non-financial entities with one or more U.S. shareholders that directly or indirectly own more than %25 of the company

\*The customer must officially withdraw U.S. citizenship or U.S. residence (such an act should be substantiated with U.S. supporting document or certificate)

## **What is required from customers even if they are non-U.S. persons?**

In general, all customers are required to determine their tax identity/residency to the Bank through the forms prepared for this purpose.

## **Who is responsible for the accuracy and the completeness of the information mentioned in such forms?**

The customer is responsible for the accuracy and completeness of the information given to the Bank and for updating such information in case of any change as soon as possible, or upon the request of the Bank.

## **What is the self-certificate concept? Is it required to be filled only by U.S. persons?**

The self-certificate is a form issued by competent authorities in Kuwait. This form is available in Arabic and English and should be used by the resident customers whenever U.S. indicators are triggered to confirm their tax identity and that they are non-U.S. persons. U.S. persons are only required to fill the W9 form.

## **What action will be taken against non-compliant customers?**

Customers who are unreachable pursuant to their contact details available at the Bank or those who are contacted, but do not complete the information required on time will be classified as “non-cooperative” customers.

The Bank shall furthermore take all necessary precautions against such non-cooperative customers to preserve its rights and to confirm its status as being FATCA compliant.

## **If my country of tax residence/the country I live in has a tax treaty with the U.S., am I exempt from FATCA or the additional recognition requirements (if any)?**

No. Even if a country has entered into a double taxation relief treaty or an exchange of information treaty with the U.S. Government, individuals and entities located in that jurisdiction are not exempt from complying with FATCA or the additional recognition requirements.

## **If you have a joint account, held by a U.S. and a non-U.S. person, is it considered a U.S. account?**

Yes, a joint account with a U.S. person is treated as a U.S. account and is therefore reportable.

## **What are FATCA law requirements for opening or updating accounts for minor customers?**

Usually the Bank requests KYC forms from both parties: guardians and minors. If there is any U.S. indicator triggered on either information of the guardian or the minor, the Bank will request that the FATCA form be filled and signed by the guardian on behalf of the minor.

### **Will non-U.S. accounts be reported?**

No, accounts categorized as non-U.S. accounts will not be reported.

### **Are governmental entities or entities wholly owned by a government exempted from providing the withholding certificate?**

No, the bank must identify all non-individual customers and obtain FATCA documentation to ensure proper classification for customers.

### **What is the information that would be exchanged with local authorities?**

It depends on the information requested by the local authorities from a year to the other. However, in general may include the following:

- Customer Name
- Tax Identification Number
- Address
- Account number(s)
- Available Balance(s) for each account or product
- Interest or other payments received during the reportable year

### **For non-individual customers, is the self-certificate required to be provided from all corporate bodies even if it is a governmental body or authority or international organization etc.?**

Yes, by Ministerial Decree No. 48 of 2015 issued in Kuwait, all non-individual customers must provide the financial institutions with this form. Only non-resident customers are exempted from this application and can provide the bank with the W8 as an alternative to the self-certification certificate.

### **Do all companies or investment funds need to register with the IRS and obtain a GIIN?**

Yes, all investment companies or funds must register and have a GIIN unless they are wholly owned by the government and solely managing the government investments.

## **Introduction to CRS**

### **What does CRS stand for?**

It stands for “Common Reporting Standard”.

### **What is CRS?**

CRS is a global and local regulation for all financial institutions to determine the tax identity of their clients. As an NBK customer, you might have to complete some additional information to properly determine and categorize your tax identity for the purpose of protecting your account information. Please consult your legal/tax advisor for more information about your tax status.

The Common Reporting Standard (CRS) was developed by the Organization of Economic Co-operation and Development (OECD) for the Automatic Exchange of Information (AEOI) to combat tax evasion.

For more information on CRS and its requirements, please visit

<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

### **What is the purpose of CRS?**

CRS aims to increase tax transparency, fight against tax evasion and protect the integrity of tax systems.

### **Which countries are participating in the CRS?**

Currently more than 100 countries are members, including most of the GCC countries.

For a list of countries participating in the CRS, please go to:

<https://www.oecd.org/tax/transparency/AEOI-commitments.pdf>

### **Is Kuwait participating in the CRS?**

Yes, Kuwait is a member of the CRS.

### **What is Kuwait's role?**

Kuwait is required to identify customers' tax identity and report on accounts that are subject to taxes in foreign participating countries to the relevant authorities in those countries.

## **Implementing CRS Requirements**

### **What is required from NBK being one of the banks operating in Kuwait, a participating country?**

NBK is required to determine – and in some cases, collect additional information – to identify customers' tax identities. In cases where customers are subject to CRS requirements, NBK shall report such information with Kuwait's local authority which in turn will report such information with the relevant authorities in other participating countries.

### **Are all banks/financial institutions implementing CRS?**

Yes, all financial institutions referred to in CRS (such as banks, insurance companies, reinsurance companies, funds and asset management entities) are required to implement the CRS requirements in all participating countries.

## **Defining Tax Residency**

### **What is the definition of Tax Residency under CRS?**

Tax residency is defined in accordance with local laws of each participating country, which may differ from one country to another and is subject to being updated by participating countries. Accordingly, NBK cannot advise customers about their tax status.

- Residency: refers to a person who resides or works in a country
- Tax Residency: generally, it means that a person is subject to taxation in a country while not necessarily having to personally reside or work in such country. Customers might be subject to taxation based on the tax residency rules in that country

### **Since there are no individual taxes in GCC, what is the Tax Identification Number (including Kuwait)?**

Some GCC nationals and customers residing in GCC with valid residencies (according to the definition of residents) may use the Civil ID number as the Tax Identification Number (TIN) with all financial institutions in Kuwait or abroad.

## **Can a customer be tax resident in more than one country?**

Yes, this is based on the definition of tax residency in each country the customer deals with/ has relations with.

## **Can a customer have no tax residency in any country?**

No, all customers should have at least one country of tax residency.

## **Is the customer's nationality linked to his/her tax residency?**

The nationality of customers is not linked to their tax residency except in rare cases such as the United States of America; and in this case, customers should be referred to their tax advisors/lawyers.

## **Does CRS replace any current tax laws/regulations (Example: FATCA)?**

No, FATCA and CRS laws, regulations and procedures, are completely independent from each other.

## **FATCA vs CRS**

### **Is it possible for customers to be subject to both FATCA and CRS?**

Yes, and in this situation, customers must complete, sign and provide all required FATCA and CRS documents separately.

### **If a customer is a tax resident of a country that is not CRS mandated, is the customer exempt from the CRS?**

#### **Individuals**

At account opening: Customers are not exempt from CRS requirements.

At updating data of existing accounts: customers who do not meet any indicia are exempt from CRS requirements.

#### **Non-Individuals, "Legal entities"**

Documentation required under CRS should be completed at account opening and at updation of data.

## **What is the CRS Self-Certificate Form?**

The CRS self-certificate is a legal form completed by customers that helps identify customers' tax residency, identity, and status.

## **What information is required on the CRS Self-Certificate Form?**

- Individuals
- Name
- Address
- Place of birth
- Country(ies) of tax residence
- Taxpayer Identification Number(s) (if any)

## **Non-Individuals, "Legal entities"**

- Name
- Address
- Country of establishment
- Country(ies) of tax residence
- Taxpayer Identification Number(s) (if any)
- Place of registration
- Entity Type
- Authorized member(s) with controlling rights through management

## **Change in the Client Information**

### **Which customers will be reportable?**

Customers who confirm through the CRS self-certificate form that they are tax resident in one of the participating countries or customers who have met any indicia that they are subject to CRS and were not cooperative with the Bank to determine their tax residency.

## CRS Reporting

### **If the customer changes his/her personal data, will this change affect the validity and validity of the CRS Self-Certificate Form? If so, what is the data?**

If the customer changes the personal data shown below, this change will affect the validity of the self-certification certificate and in this case, he/she will have to immediately fill out a new certificate with the new personal data:

- Customer name
- Customer's tax residence (for example: the customer is no longer a tax resident in the country mentioned in the self-certification certificate and has become a tax resident in another country that is not mentioned in the self-certification certificate)
- Change in the exercise of the right of control (non-individual clients/legal entity)

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Should the reader require more information or advice regarding FATCA/CRS they should seek their own professional legal and tax advice.

For further information, please visit the IRS website at [www.irs.gov](http://www.irs.gov) or [www.oecd.org](http://www.oecd.org)

For more information, scan the below QR code:

