



A guide to FATCA and the Common Reporting Standard

For advisers use only.

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Introduction

Standard Life is responsible for identifying customers who are tax resident outside the UK. We may be required to report their details to Her Majesty's Revenue & Customs (HMRC). This directly affects all products except pensions, ISAs and mortgages. While this guide focuses mainly on the position in the UK, similar rules apply in Ireland.

Our servicing process and our online and paper application forms helps us to capture the additional information we need to comply with the new requirements.

While this initially affected **US taxpayers**, a large number of countries have now signed up for similar arrangements. These are shown in Appendix 1. More countries may join the regime in the future.

Background

The Foreign Tax Compliance Act ("FATCA") was enacted in the US on 18 March 2010. It helps to identify **US taxpayers** who may have assets and income overseas.

FATCA is now part of UK legislation and the details are included in the 2013 UK Finance Act. It has also been extended from the original US rules to take into account the other countries who are adopting a similar approach.

Financial Institutions such as Standard Life are expected to obtain a formal declaration from new customers about their tax residence during the client **onboarding** process, and from existing customers where they make changes which indicate they may be tax resident outside the UK.

Standard Life has registered with the US Internal Revenue Service (IRS) and is required to meet a number of obligations, which include:

- Establishing a new account holder's **tax residency**
- Updating relevant servicing processes to comply
- Reviewing existing clients to identify those with non-UK **indicia**
- Reporting for US and other in-scope account holders and their account information
- Implementing an on-going certification process to provide evidence for compliance

Each **financial institution** receives a Global Intermediary Identification Number, or **GIIN**, when it registers with the IRS. This can be given to other **financial institutions** on request. Please see appendix 2.

Common Reporting Standard ("CRS")

This is the name for what is commonly seen as an extension of FATCA into other jurisdictions. Essentially all **Financial Institutions** will have an obligation to identify any account holders or controlling persons with a foreign tax residency and report them via HMRC to the relevant foreign jurisdictions authorities.



There are a few new terms associated with this legislation. The new terms will be in bold in the text to make them easier to identify and you'll find them in the Glossary on page six.

How are we complying in the UK?

We ask an individual during onboarding where they are tax resident and also to provide the relevant Tax Identification Number (**TIN**).

We ask organisations if they are:

- A trust
- A company
- A partnership
- An LLP

We will then ask them if they are:

- **A financial institution**
- **A UK charity**
- **An actively trading non-financial services business including non-UK charities/not-for-profit organisations**
- **A UK registered pension scheme**
- **An investment body**

We ask them, when appropriate, to confirm where they are resident for tax purposes and then for the relevant **TIN** if they answer yes.

How are we complying in Ireland?

Our International Bond is provided by Standard Life International, which is based in Dublin. This means that it is subject to the Irish rules on FATCA/CRS.

We ask an individual during **onboarding** where they are tax resident and also to provide the relevant Tax Identification Number (**TIN**).

We ask organisations if they are:

- A trust
- A company
- A partnership
- An LLP

We will then ask them if they are:

- **A financial institution**
- **An Irish charity**
- **An actively trading non-financial services business including non-Irish charities/not-for-profit organisations**
- **A pension fund**
- **An investment body**

Depending on how this is answered, the same question regarding country of residence and **TINs** then applies.

Rules which apply to both

There are some rules that apply to both the UK and Ireland. We may, for instance, also need to obtain details about controlling persons (e.g. trustees).

How are Court deputies viewed?

A deputy is a person appointed by the Court of Protection to manage the personal welfare or the property and affairs of another person, who lacks the capacity to manage them themselves.

In such circumstances a deputy is usually taking out a product on behalf of a protected person. Such arrangements are currently completely exempt from FATCA/CRS reporting so a Court Deputy will not be required to answer the questions detailed above.

How is a trust viewed?

After discussions with HMRC, we believe that a trust set up to hold a Standard Life bond will not, in most cases, be treated as a Financial Institution, with its own FATCA/CRS obligations.

HMRC has confirmed that appointing a Discretionary Investment Manager (DIM) to manage any assets, held in a bond, and set up under a trust that's for the purpose of investing in a bond, will not of itself trigger any FATCA/CRS obligations for the trust. This is because the DIM is appointed by Standard Life who is the bond provider and legal owner of the assets. It is not appointed by the trust. As a result Standard Life will be responsible for all FATCA/CRS obligations and will collect the necessary details from your clients.

Trusts with a financial institution as a trustee

A trust that is defined as a **financial institution** with a professional trustee is responsible for their own registration and complying with FATCA regulations. However, a trust doesn't need to register if the professional trustee is already registered with the appropriate authority(ies) and is willing to undertake the FATCA/CRS obligations for the trust. This is known as the **trustee documented trust** route.

Professionally managed trusts

Trusts with assets that are directly managed by an external professional may have to deal with their own registration and comply with FATCA/CRS, unless the external professional is willing to do this on behalf of the trust. This is known as the **owner documented financial institution** route and may negate the trust's registration requirements.

What happens next ?

Where existing customers with in-scope products indicate they are tax resident outside the UK, for example, by notifying us of a new address overseas, then we have to contact them to clarify their tax status.

Q&As

1. Why are ISAs and pensions out of scope?

Certain exemptions have been given where the IRS believes there is little, or no, risk of tax evasion by **US taxpayers** resident in a foreign country. An ISA and a pension are unlikely to be used to evade US tax obligations – an ISA, for example, can only be taken out by UK residents and has relatively low annual payment limits.

2. What if a customer refuses to answer these questions?

We may refuse to accept business, or we will assume that a customer is a foreign tax resident and report them to HMRC.

3. What if the customer doesn't complete the TIN?

We can still take their business. However, we are required to make reasonable efforts to obtain the TIN. This may include writing out regularly to the customer, asking them to provide it to us.

4. The new forms allows for five additional countries to be listed: what if the customer is tax resident in more than five countries?

It is extremely unlikely that this will happen but if it does please photocopy the relevant page.

5. Does data protection allow us to report to foreign authorities?

Because the UK has introduced FATCA and CRS as domestic legislation, Standard Life will not be reporting to these foreign authorities; however, we will be reporting to HMRC. There is no data protection issue with this because we are complying with our obligations under UK law. It is HMRC who will be exchanging relevant information in accordance with the UK's obligations under international treaties. A similar situation will apply in our Irish operations.

6. What happens if we don't report this information?

Standard Life could face fines and damage our good relationship with HMRC if we fail to report information under FATCA/CRS. We can also face repercussions in respect of the foreign authorities, for example, the IRS could charge us withholding taxes on any US-sourced income, or income which has been partially earned in the US, even if the individual usually lives outside the US.

7. What is the difference between tax residency and physical residency?

Tax residency concepts can vary from one country to another. Generally speaking **tax residency** can be based on the number of days someone spends in a country during a tax year; 90 days is often enough to trigger **tax residency**. In other jurisdictions it can be the number of ties someone has to a country, such as family still living there, owning property and assets there, etc. In addition, a small number of countries, including the US, also consider that anyone holding nationality in that country (e.g. a US passport) is a tax resident of that country, regardless of where they actually live.

8. Can we just refuse business to foreign taxpayers?

We could try but that won't be helpful. Firstly, people can be tax resident in more than one country, so refusing business from a foreign taxpayer could mean we are potentially refusing business from a UK resident. Secondly, with the advent of the CRS, this is already broader than the US. It covers a large number of countries, and is expected to grow rapidly. This would mean restricting our business to UK tax residents only if we wanted to limit our FATCA/CRS obligations and that would still require us to ask **tax residency** questions.

Glossary

Account/Account holder

This is the name given to the individual and the product they are taking out which is in-scope for FATCA/CRS purposes.

Actively trading non-financial services business

This includes all actively trading companies and partnerships that are not **financial institutions** and do not exist to simply hold investments, or to receive income. This also includes all foreign charities and not-for-profit organisations.

Common Reporting Standard

This is the name given to the single global standard for the automatic exchange of information between tax authorities. A large number of countries have signed up to this. See Appendix 1 for the list of those who have signed up so far.

Financial institution

Apart from the more obvious entities such as a bank or a life insurance company, this definition also includes certain professionally managed trusts. As a part of the information gathering process, a financial institution will be asked to provide its Global Intermediary Identification Number or **GIIN**.

GIIN

A Global Intermediary Identification Number (GIIN) is the number assigned to each **financial institution** across the world when it registers and becomes FATCA/CRS compliant. Standard Life has a number of GIINs as we've had to separately register some of the companies within the group. We use our GIIN as the reference number when we file our FATCA/CRS returns to HMRC. We also ask for GIINs from any **financial institutions** we deal with as the proof that they will undertake their own FATCA/CRS obligations.

Indicia

Indicia are certain defined indications that a person may be tax resident in a certain country, or may have changed their **tax residency** since we first recorded it. For example, indicia may include:

- changing their address from the UK to the US,
- claiming to be UK tax resident only but providing us with a US passport,
- giving a non-UK phone number for contact purposes, or
- setting up standing instructions to make recurring payments to a non-UK bank account.

Investment body

This definition includes private trusts, private companies, partnerships and other legal structures, which only exist to hold investments or receive income. Under FATCA/CRS it is necessary to identify the tax- resident status of the controlling persons of the investment body. Please see the section headed 'How is a trust viewed?' on page 3.

Onboarding

This normally means opening an account for new customers or a new account for existing customers (as opposed to additional payments to an existing account). It can also include changes to parties on accounts, such as adding a second joint party, or assignments of products to new legal owners.

Owner documented financial institutions

A trust which:

- is a **financial institution**,
- has some or all of its assets directly managed by an external professional, and
- the professional has agreed to take on all the FATCA/CRS responsibilities on behalf of that trust.

Passive non-financial services foreign entity

This means any non-financial services foreign entity which is not actively trading. It can also be referred to as an **investment body**.

UK registered pension scheme

This is a UK registered pension scheme and no further information is needed if this box is ticked because they are outside the scope of FATCA/CRS.

Charities

Domestic charities are outside the scope of FATCA/CRS and no further information is needed if this box is ticked.

Tax residency

A person's tax residency is where they are considered to be resident for tax purposes. It will normally be the place where they live most, or all of the time.

TIN

A Taxpayer Identification Number is the number used by a tax authority as a specific tax reference number to identify an individual or an entity. The UK equivalent is usually the National Insurance Number (NINO).

Trustee documented trust

A trust which:

- is a **financial institution**,
- has a professional trustee which is itself a financial institution, and
- the trustee has agreed to take on all the FATCA/CRS responsibilities on behalf of the trust.

US taxpayer

Anyone with US citizenship is considered to be tax resident in the US under US tax law. This applies whether or not they hold a US passport. It also applies to US Green Card holders.

Appendix 1

These are the countries that have confirmed their commitment to the **Common Reporting Standard**.

1	Albania	37	France	73	Netherlands
2	Andorra	38	Germany	74	New Zealand
3	Anguilla	39	Ghana	75	Niue
4	Antigua and Barbuda	40	Gibraltar	76	Nigeria
5	Argentina	41	Greece	77	Norway
6	Aruba	42	Greenland	78	Oman
7	Austria	43	Grenada	79	Pakistan
8	Australia	44	Guernsey	80	Panama
9	Azerbaijan	45	Hong Kong	81	Peru
10	The Bahamas	46	Hungary	82	Poland
11	Bahrain	47	Iceland	83	Portugal
12	Barbados	48	India	84	Qatar
13	Belgium	49	Indonesia	85	Romania
14	Belize	50	Ireland	86	Russia
15	Bermuda	51	Isle of Man	87	Saint Kitts and Nevis
16	Brazil	52	Israel	88	Saint Lucia
17	British Virgin Islands	53	Italy	89	Saint Vincent and the Grenadines
18	Brunei Darussalam	54	Japan	90	Samoa
19	Bulgaria	55	Jersey	91	San Marino
20	Canada	56	Kazakhstan	92	Saudi Arabia
21	Cayman Islands	57	Korea	93	Seychelles
22	Chile	58	Kuwait	94	Singapore
23	China	59	Latvia	95	Sint Maarten
24	Colombia	60	Lebanon	96	Slovak Republic
25	Cook Islands	61	Liechtenstein	97	Slovenia
26	Costa Rica	62	Lithuania	98	South Africa
27	Croatia	63	Luxembourg	99	Spain
28	Curacao	64	Macau	100	Sweden
29	Cyprus	65	Malaysia	101	Switzerland
30	Czech Republic	66	Malta	102	Trinidad and Tobago
31	Denmark	67	Marshall Islands	103	Turkey
32	Dominica	68	Mauritius	104	Turks and Caicos Islands
33	Ecuador	69	Mexico	105	United Arab Emirates
34	Estonia	70	Monaco	106	Uruguay
35	Faroe Islands	71	Montserrat	107	Vanuatu
36	Finland	72	Nauru		

Appendix 2

The **GIINs** for our Standard Life entities are as follows:

Entity name	GIIN
Standard Life Assurance Limited	Y980HP.99999.SL.826
The Standard Life International dac	JYTMVV.99999.SL.372
The Standard Life International dac (German branch)	JYTMVV.99999.BR.276



Helpful web pages

How to register with the IRS

This link takes you to the relevant page on the on the IRS website, where you can complete your registration.

www.irs.gov/Businesses/Corporations/Information-for-Foreign-Financial-Institutions

Further help

If you have a query not covered above please contact the relevant servicing area for the type of policy concerned, or your Standard Life account manager.

You may also find useful information on the following sites:

ABI/APFA guidance

www.abi.org.uk/News/News-updates/2014/04/ABI-and-APFA-launch-new-guidance-on-tax-residency-information-for-insurers-and-financial-advisers

HM Treasury joint statement

www.gov.uk/government/news/joint-statement-regarding-an-intergovernmental-approach-to-improving-international-tax-compliance-and-implementing-fatca

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