

### **What is FATCA?**

Foreign Accounts Tax Compliance Act (FATCA) was enacted on March 18, 2010 by the US Department of the Treasury and Internal Revenue Service (IRS) and went into effect as of July 1, 2014. The objective of the act is to prevent tax evasion by real persons and legal entities who are taxpayers in the US with respect to US taxation on their income and assets, and to establish a transparent and traceable tax practice.

Within the scope of compliance with FATCA regulation, bilateral agreements have been signed between the US and other countries for mutual information exchange purposes. "Agreement to Improve International Tax Compliance Through Enhanced Exchange Information (FATCA Agreement)" was signed between the Republic of Turkey and the Government of United States on 29 July 2015; the approval of the Turkish Grand National Assembly on 16 March 2016 and the approval of the Council of Ministers on 5 October 2016 were published in Official Gazette.

In accordance with FATCA regulation, financial entities outside the US must identify their customers who may be US citizens or taxpayers in the US and report the asset information of these customers to the Turkish Ministry of Finance – Revenue Administration annually.

### **What is CRS?**

Common Reporting Standard (CRS) is a regulation that aims to prevent tax evasion and to record the income subject to tax through mutual information exchange by the jurisdictions within the scope of CRS. The regulation was released to public on 13 February 2014 under the name of "Common Reporting Standard" by OECD (Organisation for Economic Co-operation and Development). The document that explains how the CRS will be implemented, *Standard for Automatic Exchange of Financial Account Information in Tax Matters*, was published on 21 July 2014. The country number that committed to implement CRS is much [more than 100](#) and Turkey is one of them.

The Turkish Ministry of Finance – Revenue Administration established *Guidance Related Tax Residency and Due Diligence* in order to implement CRS regulation in Turkey. The guidance document was published in the data transmission system of Revenue Administration, BTRANS, and the financial institutions in Turkey were informed via an official letter about that the requirements explained in the document are into force as of 1 July 2017.

### **Garanti Bank's responsibility within the scope of FATCA and CRS regulations**

As Garanti Bank, we are showing ultimate attention to comply with all national and international laws and other legal regulations to the extent allowed by local legislation.

Within the scope of FATCA and CRS regulations, we must identify our customers who may be taxpayers out of Turkey in accordance with the due diligence requirements in the regulations, obtain required information and documentation from our customers and submit the information of reportable customers to the Revenue Administration annually. Accordingly, we, just like all other banks, are requesting certain information and documentation from our customers to verify their status within the scope of FATCA and CRS regulations.

## When will FATCA and CRS regulations enter into force?

FATCA regulation started to be implemented as of 1 July 2014. Nevertheless, the transition date to the implementation may vary on a country basis according to the bilateral agreements signed between the US and the other countries. The internal legal procedures to put "FATCA Agreement" signed between the Republic of Turkey and the Government of United States into force have been completed with the approval of Council of Ministers published on 5 October 2016 in the Official Gazette and the diplomatic process is ongoing between Turkey and the US.

CRS regulation has started to be implemented in Turkey on 1 July 2017 with the official informative letter sent by The Turkish Ministry of Finance – Revenue Administration to the financial institutions in Turkey.

## Who will be impacted by FATCA regulation?

In general, we don't expect the majority of our customers to be impacted by FATCA regulation. Individuals and entities that may be directly or indirectly impacted by FATCA regulation can be summarized as follows;

- **Real persons who are associated with the US:** US citizens (including those who were born in the US and greencard holders) or those who have tax obligation in the US; those who have a US contact/residence address, US telephone number or those who reside in the US and do not provide self-certification form for tax information)
- **Legal entities that are associated with the US:** Those who have tax obligation in the US and passive non-financial entities<sup>1</sup> those for which at least one of the controlling real persons<sup>2</sup> is a US citizen or a US tax resident; those who have a US address, establishment country as US or headquartered in the US and do not provide self-certification form for tax information
- **Financial institutions:** Financial institutions that hold any type of product under the definition of "financial account" in accordance with FATCA regulation, i.e. deposit, investment, custody or specific insurance products such as private pension plans and cash-value insurance agreements

---

<sup>1</sup> **Passive non-financial entity:** Passive non-financial entity (NFE) is defined as below under FATCA and CRS regulations:

- Companies not engaged in an active business generally such as production or service, and for which more than 50% of the gross income within a calendar year is made up of passive income (such as interest, royalties, dividends), or more than 50% of the assets held during the calendar year are used or otherwise held to earn passive income.
- Investment company which is a tax resident in non-CRS country and managed by another financial institution which is a tax resident in a CRS country

<sup>2</sup> **Controlling Person:** Real persons who possess one of the qualifications below are defined as "controlling person" under FATCA and CRS regulations:

- Real person(s) who own more than 25% of the shares of the legal entity
- If there is no person who owns the shares above 25%, the real person(s) who own the ultimate control of the legal entity
- Under the situation that the controlling person(s) cannot be defined with the above ways, the real person(s) who own the highest execution authority in the trade registry of the legal entity

### **Who will be impacted by CRS regulation?**

CRS regulation has large scale effects than FATCA regulation because of having [more countries](#) within the scope. Financial institutions, as defined in the CRS regulation, in Turkey, individuals and entities who have a tax residency in any CRS countries may be affected directly or indirectly by CRS regulation. In addition, the customers who do not provide the information and documentation requested by our Bank for CRS purposes may be impacted by the regulation.

### **What is expected from our customers within the scope of FATCA and CRS regulations?**

Our customers are required to declare whether they are a tax resident in a country out of Turkey or not to Garanti Bank as a part of new customer onboarding processes. In addition, our pre-existing customers who are identified to be associated with the US and CRS countries as a result of search done by Garanti Bank, as defined within the FATCA and CRS regulations, are required to provide declaration of their tax residency and additional information and documentation to support their declaration, if necessary.

Sharing of the information and documentation requested from our customers in a complete, accurate and timely manner has a great importance in preventing possible sanctions that may be imposed on our customers by authorized bodies and sharing complete and accurate FATCA and CRS reports with the Turkish Ministry of Finance by Garanti Bank.

### **What happens if the information, documentation and declarations required within the scope of FATCA and CRS regulations are not submitted?**

The new customer onboarding is not allowed in Garanti Bank without FATCA and CRS self-certification form and related information and documentation, if necessary. In addition, the customers who are identified as a tax resident in a country out of Turkey (US or other CRS countries) in any way are reported to the Turkish Ministry of Finance – Revenue Administration annually.

The pre-existing customers of Garanti Bank from whom the self-certification and additional information are requested within the scope of FATCA and CRS regulations, however who have not been provided the self-certification and additional information are included into the annual reporting. Moreover, in accordance with FATCA Agreement signed between the US and Turkey, for the non-participating financial institutions who do not fulfil FATCA requirements, a 30% withholding over their US source income may be imposed **by the US or the authorized bodies entitled to withhold tax on behalf of the US.**

### **Who will carry out the possible withholding of tax within the scope of FATCA regulation?**

Within the scope of FATCA regulation, we, as Garanti Bank, are not under any obligation to withhold tax.

Withholding will be carried out **by the US or the authorized bodies entitled to withhold tax on behalf of the US.**

## **Which customers and which information about these customers will be submitted to the Revenue Administration within the scope of FATCA regulation?**

### **Persons who will be the subject to reporting within the scope of FATCA regulation:**

- Real persons and legal entities who have declared that they are US citizens or US tax residents and signed the relevant declaration form
- Passive non-financial entities for which at least one of the controlling real persons is a US citizen or a US tax resident and the related controlling person(s) of these entities
- Customers who are identified as associated with the US in the manner specified under "Who will be impacted by FATCA regulation", however have refused to provide the relevant information, declaration and documentation
- The payments made in 2015 and 2016 to the accounts of non-participating financial institutions (financial institutions who do not comply with FATCA regulation)

## **Which customers and which information about these customers will be submitted to the Revenue Administration within the scope of CRS regulation?**

### **Persons who will be subject to reporting within the scope of CRS regulation:**

The "reportable persons" for CRS regulation are real persons or legal entities who are tax resident in the countries, in accordance with the legislation in these countries, within the scope of CRS regulation.

- Real persons and legal entities who have declared that they are tax resident in a country/countries within the scope of CRS regulation
- Passive non-financial entities for which at least one of the controlling real persons is a tax resident in a country within the scope of CRS regulation and the related controlling person(s) of these entities
- Customers who are identified as associated with a country/countries within the scope of CRS regulation according to their information on Garanti Bank's system, however have refused to provide the relevant information, declaration and documentation

### **Information that will be submitted within the scope of FATCA and CRS regulations:**

According to FATCA and CRS regulations, information of reportable customers listed below will be shared with the Turkish Ministry of Finance-Revenue Administration:

- Name-Surname/Title
- Address
- Country of tax residency
- Tax identification number (TIN)
- Place and date of birth (for real persons)
- Account number
- Title and identification number of reporting financial institution
- The balance or value of the account for the calendar year
- The total gross amount of interest that is paid or credited to the account during the relevant reporting period

- The total gross amount of dividends that is paid or credited to the account during the relevant reporting period (for custodial accounts)
- The total gross amount of other income generated with respect to the assets held in the account, that is paid or credited to the account during the relevant reporting period (for custodial accounts)
- The total gross proceeds from the sale or redemption of financial assets that is paid or credited to the account during the relevant reporting period (for custodial accounts)

**Balance limits regarding to the customers who will be the subject to reporting:**

According to FATCA regulation, persons who became a customer of our Bank on and after 1 July 2014 are considered as “new” customers and persons who became a customer of our Bank before this date are considered as “pre-existing” customers.

- From “pre-existing and new individual customers”, those who have a total asset balance over 50.000 USD are within the scope of reporting.
- From “pre-existing entity customers”, those who have a total asset balance over 250.000 USD are within the scope of reporting.
- For “new entity customers”, there is no balance limit for the reporting.

According to CRS regulation, persons who became a customer of our Bank on and after 1 January 2017 are considered as “new” customers and persons who became a customer of our Bank before this date are considered as “pre-existing” customers.

- For “pre-existing and new individual customers”, there is no balance limit for the reporting.
- From “pre-existing entity customers”, those who have a total asset balance over 250.000 USD are within the scope of reporting.
- For “new entity customers”, there is no balance limit for the reporting.

**Note:** The balance limits, the definition and the scope of “pre-existing” and “new” customers may change based on the regulations that will be carried out by the Turkish Ministry of Finance.

**Do all banks in Turkey have to comply with FATCA and CRS regulations?**

All banks in Turkey have to comply with FATCA and CRS regulations because complying with these regulations becomes a legal requirement in accordance with local legislation when FATCA Agreement between Turkey and the US and multilateral and bilateral agreements signed for CRS come into force. To comply with FATCA and CRS regulations is a legal requirement for the banks, not a discretionary implementation. However, there may be some differences between implemented processes by the banks to comply with these regulations.

**Where can I refer to for more detailed information about FATCA and CRS regulations?**

As Garanti Bank, we are unable to carry out a detailed assessment about our customers' tax obligations in other countries different than Turkey and possible tax sanctions that they may face, to guide our customers and to give tax consultancy to them. We only fulfil our obligations required by the relevant regulations with regards to compliance with FATCA and CRS regulations. Therefore, we recommend you to contact a

professional tax consultant for more detailed information and tax advice. You may find the FATCA Agreement in [Turkish](#) and [English](#) and [frequently asked questions](#) published for the agreement on the website of the Turkish Revenue Administration. You may also use the [website](#) of US Internal Revenue Service (IRS) to find more details about FATCA regulation.

You may visit the [website](#) created by OECD to find more details about CRS regulation.

**NOTE:** This document about FATCA and CRS regulations, prepared for our customers, is intended for informative purposes only, and will be updated based on the regulations, announcements and guides that have been issued and will be issued by the authorized bodies (Turkish Ministry of Finance Revenue Administration, US Internal Revenue Service, Organisation for Economic Co-operation and Development). As Garanti Bank, we are unable to carry out a detailed assessment about our customers' tax obligations in other countries different than Turkey and possible tax sanctions that they may face, to guide our customers and to give tax consultancy to them. We only fulfil our obligations required by the relevant regulations with regards to compliance with FATCA and CRS regulations. Therefore, we recommend you to contact a professional tax consultant for more detailed information and tax advice.

Yours Sincerely,

Garanti Bank

*As Garanti Bank, including its domestic and overseas branches and subsidiaries, is only responsible to fulfil its obligations required by the relevant legislation, it cannot be held responsible for any mistakes or omissions in this document that has been prepared for informative purposes only.*