

**United Arab Emirates
Foreign Account Tax Compliance Act (“FATCA”)
Frequently Asked Questions (“FAQ”) - October 2024**

Please refer to these documents for full definitions of text contained within this FAQ. This FAQ is for illustrative purposes only and does not hold the force of law.

A. General

1. What is FATCA and how is it applied in the UAE?

Foreign Account Tax Compliance Act (“FATCA”) is United States (“US” or “U.S.”) legislation which requires all Foreign Financial Institutions (“FFIs”) to regularly submit information on financial accounts held by US persons to the US Internal Revenue Service (“IRS”).

On 17 June 2015, the United Arab Emirates (“UAE”) signed a Model 1B Intergovernmental Agreement with the US (“UAE-US IGA”) to improve international tax compliance and to implement FATCA. The UAE-US IGA was ratified pursuant to Federal Decree 9 of 2016. Accordingly, the UAE has agreed to adopt the rules to identify and report information about US accounts that meet the standards as set out in the UAE-US IGA.

Businesses must assess whether they are considered to be UAE Reporting Financial Institutions (“UAE RFIs”) and comply with their reporting obligations as stipulated under the UAE-US IGA.

Should a business require any additional information on their position and compliance requirements, they should consult with a professional advisor.

2. Who is impacted by FATCA?

UAE RFIs are required to identify financial accounts that are held by either Specified U.S. Persons or Passive Non-Financial Foreign Entities (“NFFE”), with one or more Controlling Persons, who are Specified U.S. Persons, and report certain financial account information to their Regulatory Authority.

3. Who are the UAE Regulatory Authorities under the FATCA?

The following authorities are appointed as the Regulatory Authorities for the purposes of implementing the provisions of the Agreement between the Government of the UAE and the Government of the U.S to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA) ratified by the Federal Decree No. 9 of 2016:

- a. Central Bank of the United Arab Emirates in respect of an Financial Institution (“FI”) subject to its supervision under applicable laws and regulations of the Central Bank;
- b. Securities & Commodities Authority in respect of an FI subject to its supervision under applicable laws and regulations of the Securities & Commodities Authority;
- c. Financial Free Zone Authority appointed by the relevant Financial Free Zone as a Regulatory Authority in respect of a Financial Institution registered in the relevant Financial Free Zone; and
- d. Ministry of Finance in respect of any FI not otherwise regulated by any of the aforementioned Regulatory Authorities.

4. What types of entities are UAE FIs under FATCA and the UAE-US IGA?

The UAE-US IGA will apply to FIs that are:

- a. UAE FIs that are incorporated or registered in the UAE;
- b. Branches of non-UAE FIs registered in the UAE

The UAE-US IGA does not apply to branches of UAE FIs located outside the UAE.

UAE FIs can be classified as either UAE RFIs or Non-Reporting UAE FIs.

- a. Custodial Institutions
- b. Depository Institutions
- c. Investment Entities
- d. Specified Insurance Companies

These include, amongst others, banks, custodians, investment traders, asset/wealth managers, funds and life insurance companies.

Please refer to UAE-US IGA for further description on the criteria for classification of the above enumerated forms of UAE RFIs.

5. Who is considered an Unregulated Entity?

An Unregulated Entity is any UAE RFI that does not otherwise report (including nil reports/returns) to the Central Bank of the UAE (“CBAUE”), the Securities and Commodities Authority (“SCA”), Abu Dhabi Global Market (“ADGM”) or Dubai International Financial Centre (“DIFC”) for FATCA purposes. Such entities are required to report to the Ministry of Finance (“MoF”).

6. What is a UAE RFI?

Disclaimer - the terms included in this document are as defined by the United Arab Emirates intergovernmental agreement with the United States. This document is designed to provide entities in the UAE with information to enable them to assess their obligations under the FATCA and is not intended to constitute legal or tax advice. FATCA domestic legislation shall take precedence over the information contained in this document. Information contained in this document is not a substitute for (i) reviewing and considering the relevant applicable laws in their entirety and in detail; and (ii) obtaining appropriate legal and tax advice. You should consider obtaining legal and tax advice as required to determine if you are an RFI.

A UAE RFI means any UAE FI that is not a Non-Reporting UAE FI.

7. What is a Non-Reporting FI?

Non-Reporting FIs for the purposes of FATCA are broadly defined as:

- a. a Governmental Entity, an International Organisation or Central Bank;
- b. a Broad Participation Retirement Fund, a Narrow Participation Retirement Fund, a Pension fund of an Exempt Beneficial Owner or Investment Entity wholly owned by Exempt Beneficial owners;
- c. a Financial Institution with a Local Client Base, a Local Ban, a Financial Institution with only Low-Value accounts or Qualified Credit Card issuer; and
- d. a Trustee-Documented Trust, a Sponsored Entity and Controlled Foreign Corporation, a Sponsored Closely Held Investment Vehicle, an Investment Advisor and Investment Manager, a Collective Investment Vehicle.

Please refer to Annex II of the UAE-US IGA for further description on the criteria for classification of the above enumerated forms of UAE RFIs. The above is also subject to change.

8. What is a Non-Financial Foreign Entity (“NFFE”)?

An NFFE is defined as any foreign non-US entity that does not meet the definition of an FI. NFFEs are classified as either Active or Passive NFFEs and do not have to report pursuant to the UAE-US IGA.

See Section 9 and Section 10 of the Ministry of Finance FATCA Guidance Notes for further information on the classification of Active and Passive NFFEs.

9. Who is a U.S. Person?

A U.S. person means U.S. citizens (including minor children); U.S. residents; entities, including but not limited to, corporations, partnerships, or limited liability companies created or organized in the U.S. or under the laws of the U.S.; and trusts or estates formed under the laws of the U.S.

10. How does FATCA affect UAE non financial regulated entities?

Non financial regulated entities that are UAE RFIs, are required to register on the FATCA/CRS AEOI Portal by opting “non financial regulated” in the entity registration process. Once completed, the registration will be notified to the concerned department at UAE MoF for approval or rejection of the entity registration. Upon approval of registration by UAE MoF, the entity can perform reporting obligations on the UAE MoF FATCA/CRS system.

11. What are the obligations of UAE FIs under FATCA?

UAE RFIs are required to comply with the UAE-US IGA. Broadly, UAE RFIs must:

- a. Comply with registration requirements (i.e. register with the IRS on the IRS FATCA FFI registration system and with their respective regulatory authority).
- b. Perform due diligence on financial accounts that it maintains;
- c. Annually report all U.S. reportable accounts that it maintains or file a nil return if it does not maintain any U.S. reportable accounts;
- d. Annually report any payments made to Non-Participating FIs; and
- e. Continuously monitor for changes in circumstances that result in the change of an account holder's FATCA status.

The above is not an exhaustive list of the obligations of UAE RFI. Please consult the UAE-US IGA for the full set of requirements or seek the advice of a professional consultant.

12. Which UAE FIs are exempt from reporting under FATCA?

The UAE-US IGA defines categories of UAE FIs that are Non-Reporting FIs under FATCA. The criteria for assessing whether a UAE FI is a Non-Reporting FIs are outlined in Annex II of the UAE-US IGA. These categories broadly include:

- a. Exempt Beneficial Owners (i.e. the Government of the UAE, an international organization and Central Bank);
- b. Funds that Qualify as Exempt Beneficial Owners (i.e. certain retirement or pension funds, etc)
- c. Small or Limited Scope FIs that Qualify as Deemed-Compliant FFIs (i.e. certain small and/or local FIs, etc.); or
- d. Investment Entities that Qualify as Deemed-Compliant FFIs (i.e. Trustee-documented trusts, sponsored investment entities, etc.).

Please refer to Annex II of the UAE-US IGA for a full overview of the Non-Reporting FIs under FATCA.

13. Do UAE FIs need to register with the U.S IRS and obtain a Global Intermediary Identification Number (“GIIN”)?

All UAE RFIs must register with the U.S. IRS, unless they are exempt.

Exempt Beneficial Owners and most Non-Reporting UAE FIs will not need to register with the U.S. IRS. Some Non-Reporting UAE FIs, referred to as Registered Deemed Compliant, will be obliged to register with the U.S. IRS. You must determine if you are a UAE RFI or a Non-Reporting UAE FI with registration requirements:

[The US Internal Revenue Service \(“IRS”\) FATCA FFI Registration System can be accessed here.](#)

Upon FATCA registration on the IRS portal, each registering FFI will be issued a GIIN and will be identified on the published IRS FFI List.

B. Due Diligence

14. What are the general due diligence requirements under FATCA and is this an ongoing requirement?

UAE RFIs are required to perform certain due diligence requirements, such as collecting information (i.e. via FATCA self-certification forms) and/or reviewing information in their possession to determine whether the UAE RFI maintains any U.S. reportable accounts. For certain pre-existing accounts, these requirements result in a UAE RFI having to search for certain defined US indicia linked to an account holder to identify Financial Accounts held by:

- a. Specified U.S. Persons;
- b. Passive NFFEs with one or more Controlling Persons who are Specified U.S. Persons; or
- c. Non-Participating FIs.

For certain accounts, if none of the defined U.S. indicia are discovered, then no further action is required until there is a change in circumstances (see Q11) that results in one or more U.S. indicia being associated with respect to the account (or the account becomes a High Value Account in the case of an individual lower value account) or with respect to the controlling person(s) of a Passive NFFE.

15. What is a FATCA self-certification form and how is it completed?

A FATCA self-certification form establishes where an Account Holder or Controlling Person is resident for tax purposes. This form helps the Financial Institution identify whether an individual or entity is considered a U.S. person and therefore subject to US tax reporting obligations. The key information in the self-certification include, Tax residency status, U.S. Tax Identification Number ("TIN") and the self-certification must be dated and certified.

16. What penalties are imposed on Financial Institutions for failure to obtain a valid self-certification and/or validate such self-certification?

A fine in the amount of Dirhams (1,000) one thousand shall be imposed on any RFI who opens an Account to an Account Holder or Controlling Person (as applicable) without obtaining a valid self-certification and/or failing to validate such self-certification.

17. What constitutes a change in circumstances?

UAE RFIs must monitor for a change in circumstances. A change in circumstance includes any change to or addition of information in relation to the account holder's account (including the addition, substitution or other change of account holder) or any change to or addition of information to any account associated with such account. Associated accounts are those accounts that are associated through the aggregation rules or where a new account is treated as a pre-existing obligation.

Example: Account Holder P holds an account with XYZ, a bank that is a UAE FI. There were no US indicia previously associated with the account. Five years later, P communicates to XYZ that he/she has a new residence address in the US. The UAE RFI must treat the new address as a change in circumstance and will be required to retain a record of the appropriate documentation from the account holder. XYZ obtains from P a new self-certification and documentary evidence confirming that he/she is neither a U.S. citizen nor a U.S. resident for tax purposes. The UAE RFI will treat the account holder as a non-US reportable account.

18. What if a UAE RFI is unable to obtain the US TIN of a preexisting individual or entity US reportable account?

UAE RFIs were given transitional relief to obtain U.S. TINs which extended over a period ending on December 31, 2019, expiring with reporting for calendar year 2019. The first year a U.S. TIN will be required to be reported concerning a US reportable account in respect to calendar year 2020, which is due to be reported by UAE RFIs by 30 June 2021.

As of 1 January 2020, a UAE RFI is no longer required to immediately close or withhold on pre-existing accounts that do not contain a U.S. TIN. In the IRS’ efforts to better understand the issues that UAE RFIs face in obtaining a U.S. TIN, the IRS has developed a series of codes that may be used by a UAE RFI to populate the U.S. TIN field. The use of these codes is not mandatory and does not mean that a UAE RFI will not be at risk for being found significantly non-compliant due to a failure to report each required U.S. TIN. The IRS will take into account the facts and circumstances leading to the absence of the U.S. TIN, such as the reasons why the U.S. TIN could not be obtained, whether the UAE RFI has adequate procedures in place to obtain U.S. TINs, and the efforts made by the UAE RFI to obtain U.S. TINs.

For example, whether the UAE RFI is contacting account holders annually to request any missing U.S. TINs. The expectation is that the use of these codes will allow our tax administrations to better understand the facts and circumstances behind the missing U.S. TINs, both in general and with respect to a specific UAE RFI. The TIN field code and related scenarios are as follows:

TIN code to be reported in absence of U.S. TIN	Scenario description
22222222	Preexisting individual account with only U.S. indicia being a U.S. place of birth
33333333	New individual account that: 1. has indicia of a U.S. place of birth, and 2. either: has a change in circumstances causing the self-certification originally obtained at account opening to be incorrect or unreliable, and a new self-certification has not been obtained, or was below the threshold for documenting and

Disclaimer - the terms included in this document are as defined by the United Arab Emirates intergovernmental agreement with the United States. This document is designed to provide entities in the UAE with information to enable them to assess their obligations under the FATCA and is not intended to constitute legal or tax advice. FATCA domestic legislation shall take precedence over the information contained in this document. Information contained in this document is not a substitute for (i) reviewing and considering the relevant applicable laws in their entirety and in detail; and (ii) obtaining appropriate legal and tax advice. You should consider obtaining legal and tax advice as required to determine if you are an RFI.

	reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification has not been obtained.
4444444444	Preexisting individual and entity account that: 1. has U.S, indicia other than a U.S. place of birth, and 2. either: has a change in circumstances, causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or b. was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
5555555555	New individual and entity account that: 1. has a U.S, indicia other than a U.S. place of birth; and 2. either has a change in circumstances causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
6666666666	Preexisting entity account with account balance exceeding \$1,000,000 held by a passive NFFE with respect to which no self-certifications have not been obtained, and no U.S. indicia have been identified in relation to its controlling persons.
7777777777	For pre-existing accounts where there is no U.S. TIN available and the account has been dormant or inactive, but remains above the reporting threshold, also known as a "dormant account". For reference, the U.S. defines "dormant account" in U.S. Treasury Regulations §1.1471-4(d)(6)(ii).

Disclaimer - the terms included in this document are as defined by the United Arab Emirates intergovernmental agreement with the United States. This document is designed to provide entities in the UAE with information to enable them to assess their obligations under the FATCA and is not intended to constitute legal or tax advice. FATCA domestic legislation shall take precedence over the information contained in this document. Information contained in this document is not a substitute for (i) reviewing and considering the relevant applicable laws in their entirety and in detail; and (ii) obtaining appropriate legal and tax advice. You should consider obtaining legal and tax advice as required to determine if you are an RFI.

It is recommended that U.S. TINs are obtained for all U.S. reportable accounts as UAE RFIs must continue to attempt to obtain this information from the Account Holder and evidence the efforts involved in attempting to obtain the U.S. TIN for all U.S. reportable accounts.

The IRS published [Notice 2023-11](#) and [Notice 2024-78](#) and updated the [IRS FATCA FAQs](#) providing further relief for UAE RFIs that failed to obtain U.S. TINs for reportable accounts for CY2022 through to CY2027 (extension provided under Notice 2024-78).

A UAE RFI is eligible for the relief provided by the Notice if, for each U.S. reportable account where a U.S. TIN has not been obtained, it:

- obtains and reports the birth date of each account holder (individuals and substantial owners) whose U.S. TIN is not reported;
- requests from each account holder any missing U.S. TIN, starting in CY2023;
- performs a search on electronically searchable data maintained for any missing U.S. TINs starting in CY2023, continuing this on an annual basis;
- reports an accurate TIN reporting code* for each account where a U.S. TIN has not been reported.
- performs a search on electronic searchable data for any foreign taxpayer identification number (or functional equivalent) assigned to a taxpayer by its country of residence; and
- uses AddressFix element to report the city and country of residence for each U.S. person with a missing U.S. TIN.

New TIN codes to be reported in absence of U.S. TIN	Scenario description
22222222	Preexisting individual account with only U.S. indicia being a U.S. place of birth, other than an account reported under code 000222111. This code takes precedence if any other code (other than 000222111) could also be applicable.
000222111	Preexisting depository individual account with only U.S. indicia being a U.S. place of birth. Additionally, FFI must determine that the account holder is a resident of the jurisdiction where the account is maintained for AML and tax purposes. For reference, “depository account” has the meaning defined in the US-UAE Model 1 Intergovernmental Agreement (Model 1 IGA). This code takes precedence if any other code could also be applicable.

Disclaimer - the terms included in this document are as defined by the United Arab Emirates intergovernmental agreement with the United States. This document is designed to provide entities in the UAE with information to enable them to assess their obligations under the FATCA and is not intended to constitute legal or tax advice. FATCA domestic legislation shall take precedence over the information contained in this document. Information contained in this document is not a substitute for (i) reviewing and considering the relevant applicable laws in their entirety and in detail; and (ii) obtaining appropriate legal and tax advice. You should consider obtaining legal and tax advice as required to determine if you are an RFI.

333333333	<p>New individual account that:</p> <p>(1) has indicia of a U.S. place of birth, and</p> <p>(2) either:</p> <p>(i) has a change in circumstances causing the self-certification originally obtained at account opening to be incorrect or unreliable, and a new self-certification has not been obtained, or</p> <p>(ii) was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification has not been obtained.</p>
444444444	<p>Preexisting individual or entity account that:</p> <p>(1) has U.S. indicia other than a U.S. place of birth, and</p> <p>(2) either:</p> <p>(i) has a change in circumstances that either results in one or more U.S. indicia being associated with the account or causes a self-certification or other documentation originally obtained to be incorrect or unreliable, and a valid self-certification or other documentation has not been obtained subsequent to the change in circumstances, or</p> <p>(ii) was below the threshold for documenting and reporting the account on the determination date provided in the applicable Model 1 IGA and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.</p>
555555555	<p>New individual or entity account that:</p> <p>(1) has a U.S. indicia other than a U.S. place of birth, and</p> <p>(2) either:</p> <p>(i) has a change in circumstances causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or</p> <p>(ii) was below the threshold for documenting</p>

Disclaimer - the terms included in this document are as defined by the United Arab Emirates intergovernmental agreement with the United States. This document is designed to provide entities in the UAE with information to enable them to assess their obligations under the FATCA and is not intended to constitute legal or tax advice. FATCA domestic legislation shall take precedence over the information contained in this document. Information contained in this document is not a substitute for (i) reviewing and considering the relevant applicable laws in their entirety and in detail; and (ii) obtaining appropriate legal and tax advice. You should consider obtaining legal and tax advice as required to determine if you are an RFI.

	and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
666666666	Preexisting entity account held by a passive NFFE with one or more controlling persons with respect to which self-certifications have not been obtained, and no U.S. indicia have been identified in relation to any controlling persons.
777777777	Dormant Accounts – For pre-existing accounts where there is no TIN available and the account has been dormant or inactive, but remains above the reporting threshold, also known as a “dormant account.” A “dormant account” is one that meets the definition set out in U.S. Treasury Regulations §1.1471-4(d)(6)(ii) and has had no financial activity for three years, except for the posting of interest. If an account could be classified into multiple TIN codes, the other code takes precedence.
999999999	Any account for which the FFI cannot obtain a TIN and none of the other TIN codes would be applicable. The use of this code indicates that an FFI has completed its review of accounts without U.S. TINs and has in good faith applied TIN codes to records when applicable.

C. Reporting

19. Is the date of birth (“DOB”) required to be reported by a UAE RFI?

A UAE RFI is required to report the DOB of an account holder who is a U.S. person. This information helps to ensure accurate identification of the account holder.

20. Is place of birth required to be reported by a UAE RFI?

The place of birth is not a mandatory information to be reported unless the UAE RFI is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the UAE RFI.

Disclaimer - the terms included in this document are as defined by the United Arab Emirates intergovernmental agreement with the United States. This document is designed to provide entities in the UAE with information to enable them to assess their obligations under the FATCA and is not intended to constitute legal or tax advice. FATCA domestic legislation shall take precedence over the information contained in this document. Information contained in this document is not a substitute for (i) reviewing and considering the relevant applicable laws in their entirety and in detail; and (ii) obtaining appropriate legal and tax advice. You should consider obtaining legal and tax advice as required to determine if you are an RFI.

21. Can a UAE RFI report accounts without a U.S. TIN?

A UAE RFI is generally required to report the TIN of U.S. account holders. However, there are some exceptions and transitional relief in cases where the account holder has not provided or does not have a U.S. TIN

- a. Transitional relief under Notice 2023-11 and Notice 2024-78 - For some periods the IRS has allowed FIs to report accounts without a TIN provided that additional information is submitted. (More information can be found in the Notices issued by the IRS).
- b. “Missing TIN” Codes - When a TIN is not available, RFIs can use special TIN codes to provide details on why the TIN is missing - refer to Q18 above.

The UAE RFI must continue to make reasonable efforts to obtain the TINs if they are not available initially and must document those efforts.

22. Are UAE RFIs required to submit nil returns?

If a UAE RFI has carried out its due diligence and identified that it does not maintain any US reportable accounts, the UAE RFI is required to submit a nil return(s). This must be completed by the UAE RFI by the reporting deadline.

23. How do UAE RFIs obtain access to the UAE Ministry of Finance FATCA/CRS filing portal?

UAE RFIs must register on the UAE Ministry of Finance FATCA/CRS filing portal which can be accessed using the link below:

<https://fatcacrs.mof.gov.ae/>

24. Are Active NFFEs reportable for UAE RFIs under FATCA?

The term Active NFFE generally refers to an entity that operates an active trade or business other than that of a financial business. UAE RFIs are not required to report information on Active NFFEs or their Controlling Persons under FATCA.

25. How are joint account holders treated for FATCA reporting purposes?

With respect to a jointly held account, each joint account holder is treated as an Account Holder for purposes of determining whether the account is a US Reportable Account.

Thus, an account is a US Reportable Account if any of the Account Holders is a Specified U.S. Person or a Passive NFFE with one or more Controlling Persons who are Specified U.S. Persons.

For reporting purposes, each Specified U.S. person shall be reported and as such is attributed the entire balance or value of the jointly held Financial Account, including for purposes of applying the aggregation rules.

Example: Customer A is a non-U.S. person and shares a joint deposit account with Customer B, a US Specified Person. Each customer has a separate deposit account maintained by the same UAE FI and have the following balances:

- Customer A: \$30,000
- Customer B: \$40,000
- Joint account between Customer A and Customer B: \$25,000

The UAE RFI's computerized system links the Financial Accounts and allows account balances or values to be aggregated. The balance of the joint account is attributable in full to each of the account holders. The aggregate balance for Customer A is \$55,000 and for Customer B is \$65,000.

The joint account is a US Reportable Account and Customer B's aggregate balance shall be reportable (\$65,000).

26. How is information exchanged under FATCA?

UAE RFIs must report the details of US Reportable Accounts by the requisite deadline (30 June, unless the reporting deadline has been extended).

UAE MoF will then exchange the information with the US IRS on an automatic basis.

27. When is the reporting due date for FATCA in the UAE?

The FATCA reporting deadline for UAE RFIs to report is 30 June of the year following each reporting period unless the reporting deadline has been extended as communicated by your regulatory authority.

Your regulatory authority will provide you with further information in case there is a change to yearly reporting deadlines.

28. Can a third-party service provider fulfill the FATCA due diligence and reporting obligations on behalf of UAE FIs?

The UAE-US IGA provides that UAE RFIs may use third-party service providers to fulfill obligations under the IGA (e.g. fund managers on behalf of funds and trustees on behalf of trusts), but these obligations shall remain the responsibility of the UAE RFI. Any failure by a third-party service provider would be regarded as a failure by the UAE RFI.

It is not required that the service provider be within the same jurisdiction as the UAE RFI or obtain approval from the relevant regulatory authority of the UAE FI to act as a service provider for the FI.

29. If an entity that is a UAE RFI is liquidated on 31 March 2024, is the UAE RFI still required to file a FATCA return for calendar year 2024 by 30 June 2025?

A UAE RFI would be required to fulfill its reporting obligations until the date it ceases to be a UAE RFI (e.g. due to liquidation or closure). Therefore, if the entity is a UAE RFI in calendar year 2024 (i.e. between 1 January 2024 - 31 December 2024), it would be required to submit a FATCA return for calendar year 2024 by 30 June 2025 (or a nil return, if applicable).

Hence, if the entity was considered a UAE RFI up to the point of liquidation on 31 March 2024 (and therefore a UAE RFI at a point during calendar year 2024), the entity would be required to submit a FATCA return for calendar year 2024 by 30 June 2025 (or a nil return, if applicable).

30. If an entity that is a UAE RFI is liquidated, what are the responsibilities of the UAE RFI to ensure the FATCA account is closed?

It is the UAE RFI's responsibility to notify the relevant regulatory authority that it has been liquidated and ensure that FATCA Financial Accounts are closed and subsequently that the UAE RFI is deregistered from the UAE Ministry of Finance FATCA/CRS filing portal.

Non financial regulated entities which are UAE RFIs must notify the UAE Ministry of Finance (in its capacity as a regulatory authority for non financial regulated entities) that it has been liquidated and ensure that the FATCA Financial Accounts are closed.

A Financial Account is treated as a Reportable Account as of the date it is identified as such pursuant to the due diligence procedures under the FATCA legislation. A Reportable Account

remains reportable until the date it ceases to be a Reportable Account (e.g. due to the closure of the account). If a Reportable Account is closed due to the liquidation or winding up of the UAE RFI, information with respect to such account remains annually reportable until the date of closure of the Financial Account by the UAE RFI in the framework of the liquidation or the winding-up.

It is also the responsibility of the UAE RFI to deregister from the US IRS FATCA portal.

31. Do Active Non-Financial Foreign Entities (“NFFEs”) or Passive NFFEs have reporting obligations under FATCA?

Under FATCA, a UAE FI includes any entity that:

- a. accepts deposits in the ordinary course of a banking or similar business (a Depository Institution);
- b. holds financial assets for the account of others as a substantial portion of its business (a Custodial Institution);
- c. is engaged primarily in the business of investing, reinvesting, trading securities, partnership interests, commodities or similar financial instruments (an Investment Entity); or
- d. issues or makes payments in respect of insurance or annuity contracts (a Specified Insurance Company).

Entities which are not UAE FIs are considered NFFEs for the purposes of FATCA. This could be an Active NFFE or Passive NFFE as defined under the UAE-US FATCA Intergovernmental Agreement (“IGA”).

Active or Passive NFFEs do not have reporting (or nil return) filing obligations under the UAE-US FATCA Intergovernmental Agreement (“IGA”).

32. What is the process for submitting a nil return for FATCA purposes?

If you are a UAE RFI, you must file annual returns (or a nil return, if applicable) via the UAE Ministry of Finance FATCA/CRS filing portal by the stipulated deadline.

The portal can be accessed via the link below:

<https://fatcacrs.mof.gov.ae/>

The nil reporting requirement is a 'tick the box' exercise in the FATCA portal and no documentation is required to be submitted at the present time (although this may be subject to change in the future).

33. What are the penalties or sanctions applicable for non-compliance to FATCA?

Failure to comply with the reporting requirements under FATCA can result in severe financial penalties and administrative sanctions for the financial institutions. Fines vary from AED 1,000 to AED 250,000 and sanctions can be in the form of suspension or withdrawal or non-renewal of the license issued to such institution. More information on penalties and sanctions can be found in Article 7 of the [Cabinet of Ministers Resolution No. \(63\) of 2022](#) available on the Ministry of Finance FATCA/CRS webpage.