

**Frequently asked questions (FAQ's):  
Regulatory reporting requirements with regard to the  
Foreign Account Tax Compliance Act (FATCA)  
and  
Common Reporting Standards (CRS)**

**1 What is FATCA and CRS?**

FATCA stands for the Foreign Account Tax Compliance Act and was enacted in 2010 by the US Congress to overcome tax evasion by US taxpayers using foreign accounts. The regulation came into effect through an intergovernmental agreement ('IGA') between the South African Revenue Service ('SARS') and the US Internal Revenue Service ('IRS'), whereby SARS agreed to transfer US accountholder information to the IRS in return for South African accountholder information.

CRS stands for the Common Reporting Standard and is a global version of the US FATCA. CRS is a set of standards created by the Organisation for Economic Co-operation and Development ('OECD'), much like FATCA, and it too seeks to overcome offshore tax evasion by any person, including South African citizens, that have tax obligations, tax liabilities or tax residencies outside South Africa.

Both regulations require financial institutions to report to their relevant competent tax authority (which in South Africa is SARS) information on financial accounts held by any individuals or entities that have tax obligations, tax liabilities or tax residencies outside South Africa; or held by entities that are incorporated or organised or have a place of effective management outside South Africa or have tax obligations, tax liabilities or tax residencies outside South Africa. Furthermore, where an entity has any controlling person with tax obligations, tax liabilities or tax residencies outside SA and/or holds US citizenship, or is a US person or a US national, the entity may also be reported.

**2 Who is affected?**

All Nedbank clients/acountholders are affected in some way by FATCA and CRS by virtue of the fact that financial institutions are required to determine whether their accountholders have tax obligations, tax liabilities or tax residencies outside South Africa. To do so financial institutions are also required to obtain additional information about their accountholders.

Financial Institutions are then required to determine the reasonableness of the information contained in the FATCA/CRS self-certification provided by accountholders by verifying this information against information that the client has already provided to the financial institution in terms of the Financial Intelligence Centre Act ('FATCA'). Should there be any discrepancies in the information, the client may be requested to come into the branch to update the information appropriately. This information is all reported to SARS.

**3 Why am I being asked to supply a self-certification?**

FATCA and CRS require financial institutions to request that **all clients** confirm whether or not they have tax obligations, tax liabilities or tax residencies outside South Africa. In the case of **entities**, they are required to confirm whether or not they are incorporated or organised or have a place of effective management outside South Africa or have tax obligations, tax liabilities or tax residencies outside South Africa and whether any of their controlling persons have tax obligations, tax liabilities or tax residencies outside South Africa and/or hold US citizenships, or are US persons or US nationals.

**4 What is a self-certification?**

Self-certification is a statement by clients as to their tax residency and, in the case of an entity, it is a statement as to its tax residency, entity classification and the tax residency(ies) of its controlling person(s). In the case of clients with US ties, a Nedbank self-certification must be provided along with the applicable IRS W-8 or W-9 form and, where applicable, proof of renunciation of citizenship.

**5 Are there penalties for non-compliance?**

SARS may impose penalties for non-compliance on both clients (and accountholders) and financial institutions. This is effected through local law, being the Tax Administration Act.

**6 Where can I find the definitions of terms contained within the Nedbank self-certification form?**

A link to a glossary of FATCA and CRS terms that have been used in the Nedbank self-certification form can be seen at the top of the self-certification form. If this proves to be inadequate, the FATCA and CRS regulations both contain a set of definitions and can be found on the IRS website ([www.irs.gov](http://www.irs.gov)) and on the OECD website ([www.oecd.org](http://www.oecd.org)). Please note, however, that the Nedbank glossary of terms is for reference purposes only and does not constitute tax advice. Additionally, local legislation between jurisdictions may define the meaning of certain terms differently. Clients should consider such local legislation and seek appropriate independent tax advice, where necessary.

**7 How can I determine where I am tax resident?**

You need not be registered for tax in a particular jurisdiction to be a tax resident of that jurisdiction. Tax residency is determined under the applicable jurisdiction's local laws. Please contact a tax advisor if you have any questions or are uncertain about your tax obligations or tax residency. You can also obtain more information from the SARS website ([www.sars.gov.za](http://www.sars.gov.za)) where South African tax residency is concerned or the OECD website ([www.oecd.org](http://www.oecd.org)), which has some helpful information to determine tax residency outside South Africa.

**8 What is a W-8 form?**

A W-8 form is used to indicate an accountholder's classification and tax residency for FATCA US reporting. There are many variations of the W-8 (W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY), and each form is applicable to a different exemption regime. It is recommended that clients consult the IRS website ([www.irs.gov](http://www.irs.gov)) or a tax specialist if they are unsure which form is applicable to them; however, instructions at the start of the form are generally quite clear and indicate in which circumstances the form is relevant. The two most relevant forms for accountholders with possible US ties are the following: W-8BEN – Certificate of Foreign Status (foreign to the US) for Individuals; and W-8BEN-E – Certificate of Foreign Status (foreign to the US) for Entities.

**9 What is a W-9 form?**

A W-9 form is completed by US entities, US citizens or residents to confirm their US registration status with the IRS. The certification will also confirm whether a US entity is exempt from FATCA reporting.

**10 Where do I get a W-8 form or W-9 form?**

A link to the IRS W-form applicable to you will appear at the end of the Nedbank self-certification form, before you submit the self-certification. Should this not be the case, forms can be downloaded from the Nedbank FATCA/CRS landing page along with instructions on how to complete the different forms. Failing this, the latest version of the IRS W forms can be downloaded from the IRS website ([www.irs.gov](http://www.irs.gov)) along with instructions on which form (W8 or W9) is appropriate and how to complete it.

**11 Must I complete a W-8 or W-9 form in addition to a self-certification?**

It will depend on each client's circumstances. The Nedbank self-certification forms will indicate to you whether you need to complete a Nedbank self-certification form only and whether you will need to complete a Nedbank self-certification form as well as a W-8 or W-9 form.

**12 What happens if I don't complete a self-certification, W-8 form or W-9 form or provide evidence of renounced citizenship?**

As a financial institution in a country that is obliged to report in terms of FATCA and CRS, Nedbank will be required to report to SARS all accountholders who fail to confirm whether they, as individuals, have tax obligations, tax liabilities or tax residencies outside SA, or they, as entities, are incorporated or organised or have a place of effective management outside SA and whether they or any of their controlling person(s) have tax obligations, tax liabilities or tax residencies outside South Africa and/or hold US citizenship, or are US persons or US nationals.

**13 Where can I get more information?**

To learn more about FATCA and CRS as well as the status of jurisdictions committed to these regulations please refer to [www.irs.gov](http://www.irs.gov) for FATCA and to learn more about CRS and the status of jurisdictions committed to the standards please refer to the [www.oecd.org/tax/automatic-exchange/](http://www.oecd.org/tax/automatic-exchange/).

**14 Why are we complying with FATCA / CRS?**

Nedbank is committed to ethical and compliant business practices and supports governments worldwide in their efforts to improve cross border tax compliance. Additionally, the requirements set out by FATCA/CRS have ultimately been enacted into local law in South Africa under the Tax Administration Act, 28 of 2011. Nedbank is therefore legally obligated to comply with these requirements.

**15 Whom can I speak to if I think I have received a letter or email in error?**

Please contact our dedicated team members on <insert number>; they will assist you in determining why you received this letter or email, and what you should do.

**16 My child received a letter/email – surely this is wrong?**

Sorry, the communication should have been sent to the parent/guardian on behalf of the child. Your child is an accountholder at Nedbank and therefore a Nedbank self-certification form should be completed. However, this should be done by the 'controlling person', which in this case is the parent/guardian.

**17 I have received more than one request to self-certify – what should I do?**

We have tried to send only one communication to each client/acountholder. However, many people have accounts in different capacities requiring self-certification. If you have received more than one request, it is because you are not only an accountholder at Nedbank, but you are also the authorised representative for an entity that holds an account at Nedbank. You might also have a power of attorney over a person's account that is held at Nedbank. You will need to complete a Nedbank self-certification form for each request – either an individual/controlling-person form or an entity form. Please ensure that you use the correct form to capture the CIS number you received in the self-certification request.

**18 The online self-certification form is not working properly.**

Please contact our dedicated team immediately on +27(0)10 217 4061 or email on FATCACRSQuerySupport@Nedbank.co.za . The team will get someone to fix it.

**19 I closed my account(s). Why am I receiving this?**

If you closed your account(s) after 1 March 2017, your account still earned interest and therefore Nedbank still needs to know whether you have any tax obligations, tax liabilities or tax residencies outside SA that SARS needs to be aware of.

**20 You seem to think I have foreign interests. I haven't – my data must be wrong. How can I fix this?**

Asking you to self-certify in terms of FATCA and CRS is not about whether or not you have any foreign interests. Rather it is a request to all Nedbank clients to confirm whether or not they as individuals have any tax obligations, tax liabilities or tax residencies outside South Africa and/or hold US citizenship, or are a US person or a US national; and if they are an entity, whether or not they are incorporated or organised or have a place of effective management outside South Africa and whether they or any of their controlling persons have any tax obligations, tax liabilities or tax residencies outside South Africa and/or hold US citizenship, or are US persons or US nationals.

**21 Is it sufficient that I have self-certified with another bank?**

No, you are required to self-certify with each financial institution that you have accounts with.

**22 Can I have a copy of what you report?**

You can download and print the Nedbank self-certification form that you completed. It is a good idea to do this as the Nedbank self-certification form is a tax document.

Please note: *The details provided in this letter are intended to assist in understanding the FATCA/CRS requirements and not to serve as tax advice. If you are uncertain about your status or how you are impacted by these regulations, please consult a professional tax advisor.*