

CHAPTER  
**10**

**Due diligence key  
concepts**

# 10. Due diligence key concepts

## 10.1 Documentation

### 10.1.1 Confirming the Reasonableness of a Self-Certification

A self-certification provided by an account holder cannot be relied upon if a Reporting Qatari Financial Institution has reason to know that it is incorrect, unreliable or there is a change in circumstance which changes the account holder's status.



A Reporting Qatari Financial Institution receiving a self-certification, must consider other information it has obtained concerning the account holder to check whether the self-certification is reasonable. For example, the Reporting Qatari Financial Institution must consider any documentation obtained for AML/KYC purposes, including any information that an account holder voluntarily provides to it. If there is a conflict of information, the Reporting Qatari Financial Institution is required to make further enquiries. An FI will be considered to have a reason to know that a self-certification associated with an account is reliable/incorrect if based on the relevant facts a reasonably prudent person would know this to be the case.



**Example 1** - Where an account holder provides one of the US indicia, such as a US address, to the Reporting Qatari Financial Institution but then provides a self-certification confirming they are not US resident for tax purposes, the Reporting Qatari Financial Institution would need to make further enquiries to establish whether or not the self-certification is reasonable.

Where a Reporting Qatari Financial Institution relies on AML procedures performed by other parties and no self-certification is provided directly to the Reporting Qatari Financial Institution, the Reporting Qatari Financial Institution may request that the third party should obtain a self-certification for the purposes of the IGA. The third party should then confirm the reasonableness of the self-certification based on information that it has obtained.

For the avoidance of doubt, where self-certification is received directly by the Reporting Qatari Financial Institution, there is no requirement to ensure that any third party that carried out AML/KYC procedures has confirmed its reasonableness. The Reporting Qatari Financial Institution is required to confirm this based on any other information it alone has obtained or holds. So where an Independent Financial Advisor ("IFA") or a third party has performed AML checks, the Reporting Qatari Financial Institution is not deemed to have seen any documentation the IFA has seen, unless the documentation is also provided to the Reporting Qatari Financial Institution.

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**Example 2** - A Reporting Qatari Financial Institution has received a New Account opening instruction from an individual which includes a self-certification regarding the account holder's residence status. The Reporting Qatari Financial Institution has performed AML procedures by checking the identity of the individual (name, address and date of birth) against the records of, for example a credit reference agency. The check confirmed the identity of the individual.

The Reporting Qatari Financial Institution can satisfy its obligations under the Agreement by confirming the reasonableness of the self-certification against other information in the account opening instruction and any other information it has on the individual. Where no other information exists, the reasonableness is confirmed based on information in the account opening instruction alone.



**Example 3** - A Reporting Qatari Financial Institution has received New Account opening documentation from an individual who has been advised by an IFA. The Reporting Qatari Financial Institution is unaware of any previous contact with the individual and has not delegated the IFA to carry out the FATCA due diligence procedures on its behalf. However, the Reporting Qatari Financial Institution can rely on the introducing IFA to perform the necessary AML checks to identify the individual and is provided with a confirmation by the IFA that they have done so.

The Reporting Qatari Financial Institution must therefore ensure it identifies the account holder's status for FATCA purposes. The documents received regarding the account opening contains information about the individual (name, address, date of birth, contact details including telephone number and email address), and a self-certification that the individual is not resident in the US for tax purposes, and is not a citizen of the US.

The Reporting Qatari Financial Institution can satisfy its requirements under the Agreement by confirming the reasonableness of the self-certification against other information contained in the account opening instruction and any other information it has on the individual. Where no other information exists the reasonableness is confirmed based on the information in the account opening instruction alone. The Reporting Qatari Financial Institution is not deemed to have seen any documentation the IFA has seen.



**Example 4** - As per example 2, but the Reporting Qatari Financial Institution has delegated the IFA or another person as its agent (through a Service Level Agreement – "SLA") to perform the FATCA due diligence procedures required under the Agreement on its behalf.

The IFA carries out the necessary checks and obtains a self-certification from the individual confirming their FATCA status. The Reporting Qatari Financial Institution can satisfy its requirements under the Agreement by obtaining confirmation from

the agent that they have confirmed the reasonableness of the self-certification. However, if the agent does not perform adequate due diligence, the liability for the failure lies with the Reporting Qatari Financial Institution.



**Example 5** - As per example 1, but the individual has been introduced by an IFA however, the Reporting Qatari Financial Institution has not placed reliance on the agent's AML procedures and instead has performed its own AML procedures.

The Reporting Qatari Financial Institution can satisfy its requirements under the Agreement by confirming the reasonableness of the self-certification against other information contained in the account opening instruction and any other information it has on the individual. Where no other information exists the reasonableness is confirmed based on the information in the account opening instruction alone.

### 10.1.2 Validity of Documentation



Unless there is a change in circumstance or the Reporting Qatari Financial Institution has knowledge, which results in a change of the account holder's status, a withholding certificate or other documentary evidence, including a self-certification, used to establish an account holder's status will remain valid indefinitely.

### 10.1.3 Retention of Documentary Evidence



A Reporting Qatari Financial Institution, Sponsoring Entity or a third party undertaking due diligence procedures for a Financial Institution must retain records of the documentary evidence used to support an account holder's status for a period of fifteen years following the end of the year in which the status was established in line with local AML regulations. Financial Institutions may want to review their document retention policies to ensure they are compliant.

The documentary evidence can be retained as originals, photocopies or in an electronic format.

Where a Relationship Manager enquiry is required (for High Value Pre-existing Accounts) records of electronic searches, requests made and responses to Relationship Manager enquiries should also be retained for is fifteen years following the end of the year in which the due diligence was undertaken. Guidance on the identification and role of a Relationship Manager can be found at Section 6.6.3.

### 10.1.4 Change of Circumstance

A change in circumstances includes any change to or addition of information in

relation to the account holder's account (including the addition, substitution, or other change of an account holder) or any change to or addition of information to any account associated with such account. Additionally, any change that creates a conflict with a self-certification or other previous documentation associated with an account should be included in the definition of a change of circumstance.

A change of circumstance will only have relevance if the change to or addition of information affects the status of the account holder (i.e. being identified as a US Person or not) for the purposes of the Agreement. For example a change of address within the same country would not indicate a change of circumstance.

The IRS W-series forms generally require customers to submit a new form to the requestor within 30 days of a change that makes any certification on the old form incorrect.

Associated accounts are those accounts that are associated through the aggregation rules or where a New Account is treated as being a pre-existing obligation. See Section 10.2 for aggregation rules and Chapters 7 and 9 for information on new accounts for pre-existing account holders.



**Example 1** - Where an account holder with a Pre-existing Account opens a New Account that is linked to the Pre-existing Account in the Reporting Qatari Financial Institution's computer systems and, as part of the account opening process, a US telephone number is provided, then this is a change in circumstance with respect to the Pre-existing Account.

The change will only be relevant if it indicates that an account holder's status has changed, that is, it either indicates that they are a US Person or that they are no longer a US Person.



If there is a change of circumstances that causes the Reporting Qatari Financial Institution to know or have reason to know that the original self-certification (such as one obtained on the opening of a New Individual Account) is incorrect or unreliable, the Reporting Qatari Financial Institution can no longer rely on the original self-certification.

The Reporting Qatari Financial Institution should then obtain a new self-certification that establishes whether the account holder is a US citizen or US tax resident.

In the event that there is a change in circumstance which indicates a change in the account holder's status, the Financial Institution should verify the account holder's actual status and obtain new documentation within 30 days, to allow it to report the account, if required, in the next reportable period.

If an account holder fails to respond to a Financial Institution's requests for a self-certification or for other documentation to verify the account holder's status within the 30 day period, then the Financial Institution should treat the account as a US Reportable Account until such time as the Financial Institution is given the necessary information to be able to correctly verify the status.

## 10.2 Aggregation

A Financial Institution will need to consider aggregation of accounts of both individuals and entities in order to identify whether the accounts are reportable and whether they are Lower Value Accounts or High Value Accounts.

### 10.2.1 When do the aggregation rules apply?

Aggregation is required where the Financial Institution has elected to apply the monetary thresholds set out in Annex I of the Agreement that relieve Reporting Qatari Financial Institutions of having to review, identify, and report certain Financial Accounts. The aggregation rules also apply in determining whether an account is a High Value Account.

A Financial Institution is required to aggregate all Financial Accounts held by the same account holder that are maintained by it or by a Related Entity, but only to the extent that the Financial Institution's current computerized systems link the Financial Accounts by reference to a data element, for example a customer or taxpayer identification number, and allow account balances or values to be aggregated. Where accounts can be linked by a data element and details of the balances are provided but the system does not provide an aggregated balance of the accounts, the Financial Institution will still be required to carry out the aggregation process.

Note: Financial Institutions should only aggregate accounts that are held by the same account holder. All accounts held by any individual, or entity, are required to be aggregated. However, if an individual, who holds accounts in their own name, is also a controlling person of an Entity, then the accounts of the Individual and the Entity for whom they are a controlling person should not be aggregated.

### 10.2.2 Relationship Manager

For the purposes of determining the aggregate balance or value of accounts held by a person to determine whether an account is a High Value Account, a Financial Institution shall also be required, in the case of any accounts that a Relationship Manager knows or has reason to know are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.



### Example 1 – Lower Value Account

An individual holds a number of accounts with Bank A and has been assigned a relationship manager. Bank A can aggregate the accounts by virtue of a customer ID. The aggregated balance of accounts exceeds \$50,000 and is less than \$1,000,000.

Bank A must apply due diligence procedures relevant to Lower Value Accounts. There is no need for Bank A to carry out the Relationship Manager enquiry as the \$1,000,000 High Value Account threshold has not been exceeded.



### Example 2 – High Value Accounts

The facts are as in example 1 above but the aggregated balance exceeds \$1,000,000. As the aggregate balance of all Financial Accounts linked by a common data element and held by the individual exceeds \$1,000,000 the Financial Institution must also make enquiry of any Relationship Manager(s) assigned to that individual to establish whether the Relationship Manager(s) knows of any additional accounts that are directly or indirectly owned, controlled or established (other than in a fiduciary capacity) by the same person.

## 10.2.3 Exempt Products

If a product is exempt from being treated as a Financial Account, it does not need to be included for the purposes of aggregation. For example, where an individual holds a Qatari exempt Financial Account (such as a non-retirement savings account which meets the exemption criteria within Annex II of the Agreement) as well as several Depository Accounts with the same Financial Institution and their systems allow these to be linked, then the Financial Institution must aggregate the Depository Accounts but not the non-retirement savings account. If however the exclusion of exempt products creates an additional burden, such products can be aggregated.

## 10.2.4 Related Entities

Where a computer system links accounts across related entities, irrespective of where they are located, the Financial Institution will need to aggregate in considering whether any of the reporting thresholds apply. However, once it has considered the thresholds, the Financial Institution will only be responsible for reporting on the Reportable Accounts which it holds. The following example sets out how this could work in practice.



**Example 1** - Bank A is a Reporting Qatari Financial Institution and has a related entity Bank C which is also a Reporting Qatari Financial Institution. Bank A can link the Depository Account of US person X to another Depository Account in the name of US person X with Bank C by virtue of

their client ID. The aggregation exercise shows that the total amount held in these accounts is above the Depository Account threshold for reporting.

Bank A and Bank C must each report individually on the accounts they hold for US person X.

If Bank C is located in another jurisdiction it would have to report on the account it holds if it is a Reporting Financial Institution under the FATCA arrangements of that jurisdiction.



**Example 2** - Bank A is a Reporting Financial Institution and has a related entity Bank B which is also a Reporting Qatari Financial Institution. Bank A can link the Depository Account of US Person X to a Custodial Account in the name of the same US Person X with Bank B, by virtue of the taxpayer identification number found during the due diligence process. The accounts have balances as follows:

Depository Account with Bank A - \$30,000

Custodial Account with Bank B - \$40,000

As the aggregated balance or value is \$70,000 the accounts are potentially reportable. However, the Depository Account balance is below the \$50,000 threshold for Depository Accounts and is therefore not reportable.

The Custodial Account in this example is reportable because the aggregated total exceeds \$50,000 and there is no Custodial Account exemption that can apply.

Bank B must report on the account it holds for US Person X.

If Bank B were to be located in another jurisdiction it would have to report on the account it holds under the FATCA arrangements of that jurisdiction.

### 10.2.5 Aggregation of Pre-existing Individual Accounts

The following examples provide illustrative outcomes that could occur from the aggregation process. Unless otherwise stated, all balances or values referred to in the following examples are balances or values as at 30 June 2014.



#### **Example 1 – Application of the \$50,000 threshold**

Bank A has elected to apply the relevant thresholds in Annex I of the Agreement. It can link the following accounts of US Person X by a Client ID found during the due diligence process:

A Depository Account with a balance of \$45,000

A Depository Account with a balance of \$7,000

The aggregation rules in the Agreement apply for the purposes of determining whether the balance of each preexisting individual account exceeds \$50,000. Since the aggregated balance of the two accounts is \$52,000, neither account can benefit from the exemption provided by the threshold. Therefore, both accounts are reportable.



#### **Example 2 – Application of the \$50,000 threshold**

Same facts as example 1 above, except the accounts of US person X are:

A Depository Account with a balance of \$15,000

A Custodial Account with a balance of \$20,000

The aggregated total is below \$50,000; therefore regardless of the types of account neither account will be reportable.



#### **Example 3 – Application of the \$50,000 threshold**

Same facts as example 1 above, except the account balances of US Person X are:

A Depository Account with a balance of \$40,000

A Custodial Account with a balance of \$17,000

As the aggregated balance or value is \$57,000 the accounts are potentially reportable. However, the Depository Account balance is below the \$50,000 threshold for Depository Accounts and is therefore not reportable.

The Custodial Account in this example is reportable because the aggregated total exceeds \$50,000 and there is no Custodial Account exemption that can apply.



#### **Example 4 – Application of the \$250,000 Cash Value Insurance Contract threshold**

Company B is a Qatari Financial Institution and has elected to apply the relevant thresholds in Annex I of the Agreement. It can link the following accounts of US Person Y by a client number found during the due diligence process:

A Cash Value Insurance Contract with a value of \$225,000

A Custodial Account with a balance of \$35,000

The aggregated balance or value indicates the accounts are potentially reportable (aggregated value above \$50,000); however, as the Cash Value Insurance Contract is below the threshold that applies to that type of account, it is not reportable.

There is no Custodial Account exemption; therefore the Custodial Account is reportable.



### **Example 5 – Application of the \$1,000,000 threshold for High Value Accounts**

Bank A can link the accounts of US Person Z by a TIN found during the due diligence process:

A Depository Account with a balance of \$45,000

A Custodial Account with a balance of \$970,000.

As the aggregated total is in excess of \$1,000,000 US Person Z is identified as a holder of a High Value Account. The enhanced review procedures for high value accounts, including the relationship manager enquiry, apply to the custodial account to determine if the account holder is a Specified US person.

However, the Depository Account balance is below the \$50,000 threshold for Depository Accounts and is therefore not reportable.

The Custodial Account in this example is reportable as a High Value Account.

Depending on the application of de minimis thresholds, not all accounts aggregated are reported for the purposes of determining a High Value Account (invoking an enhanced review).

## **10.2.6 Joint Accounts**

For joint accounts, the entire balance or value of the account should be attributed to each holder of the account. This applies for both aggregation and reporting purposes.



**Example 1** - Two US Persons have three accounts between them, one deposit account each and a jointly held deposit account with the following balances:

US Person A \$35,000

US Person B \$15,000

Joint Account \$30,000

A data element in the Financial Institution's computer system allows the joint account to be associated with both A and B. The system shows the individual balances of the accounts; and a combined balance.

The balance on the joint account is attributable in full to each of the account holders. In this example the aggregate balance for A would be \$65,000 and for B \$45,000. As the amount after aggregation for Customer A is in excess of the \$50,000 threshold, Customer A's account must be reviewed to determine if he/she is a US person. As the amount after aggregation for Customer B is in below the \$50,000 threshold,

Customer B's account is not required to be reviewed.



### Example 2 – Aggregation of negative balances

Two US Persons have three accounts between them, one account each and a jointly held account, all with the same Financial Institution with the following balances:

US Person A \$65,000

US Person B \$45,000

Joint Account (\$8,000) – treated as nil

The accounts can be linked and therefore must be aggregated, but for the purposes of aggregation the negative balances should be treated as nil.

Therefore after applying the \$50,000 threshold, only Customer A's account has to be reviewed to determine if he/she is a US person.

## 10.2.7 Reporting

Once aggregation has taken place and it is determined that the accounts are reportable, the accounts should be reported individually. A Financial Institution should not consolidate the accounts for reporting purposes.



### Example – Separate account reporting

Person Y (a Specified US Person) holds three Depository Accounts with bank Z. The balances are as follows:

Account 0001 \$3,000

Account 0002 \$32,000

Account 0003 \$25,000

The aggregated balances total \$60,000 and all the accounts are reportable. Bank Z should report on the three accounts individually and not consolidate the information into a single entry for reporting purposes.

## 10.2.8 Aggregation of Pre-existing Entity Accounts

For purposes of determining the aggregate balance or value of accounts held by an entity, all accounts held by the entity will need to be aggregated where the Financial Institution's computerized system can link the accounts by reference to a common data element and the Financial Institution has elected to apply the monetary thresholds set out in Annex I of the Agreement.



**Example 1** - Entity Y has two depository accounts with Bank X. The balances are as follows:

Depository account \$150,000

Depository account \$110,000

Bank X applies the relevant thresholds in Annex I of the Agreement and its computer system allows the account balances to be aggregated. The accounts must be reviewed since the aggregated balance exceeds the applicable threshold of \$250,000 for an entity. The review determines that Entity Y is a Specified US Person. The accounts are reportable.



**Example 2** - Person A (a Specified US Person) has an individual Depository Account with Bank X. Person A also controls 100% of entity Y and 50% of entity Z both of which also have Depository Accounts with Bank X. The balances are as follows:

Individual Depository Account \$35,000

Entity Y Depository Account \$130,000

Entity Z Depository Account \$110,000

Bank X has elected to apply the relevant thresholds in Annex I of the Agreement and these accounts can be linked in Bank X's system.

The individual Depository Account is not reportable as it is below the \$50,000 threshold. There is no need to aggregate Depository Accounts held by entities controlled by an individual with those held directly by that individual to determine whether the \$50,000 exemption applies under Section II.A.4 of Annex I of the Agreement.

Entity Y's and Entity Z's Depository Accounts are also non reportable as the aggregated balances are below the \$250,000 threshold that applies to Pre-existing Entity Accounts. In calculating the aggregated amount 100% of each entity's Depository Account is taken into account and so the aggregated amount in this case is \$240,000 which is below the threshold.



**Example 3** - Individual A has a custodial account with Bank X. Individual A also controls 100% of Entity Y and 50% of Entity Z. Entity Y holds a custodial account and Entity Z holds a depository account, (both accounts are with Bank X). A relationship manager is assigned to Individual A. The balances are as follows:

Individual A custodial account \$35,000

Entity Y custodial account \$1,180,000

Entity Z depository account \$110,000

Entity Z's depository account has never exceeded \$1,000,000. Bank X must make enquiry of the relationship manager assigned to Individual A to establish whether

the manager knows of any accounts that are directly or indirectly owned, controlled or established (other than in a fiduciary capacity) by Individual A.

The relationship manager knows Person A is the controlling person of Entity Y and Entity Z and, therefore, is required to aggregate the three accounts. Since the aggregated balance of Individual A's account exceeds \$1,000,000, Person A's account is a high value account subject to the enhanced review procedures. The value of Entity Y's account exceeds the \$250,000 threshold and must be reviewed whereas Entity Z's account is not required to be reviewed as its balance does not exceed that threshold.

### 10.2.9 Aggregation of Sponsored Funds

In the context of a family of funds, accounts may be linked for purposes of centralized statement preparation. However, if no fund controls another fund and none of the funds are under common control from an ownership perspective, aggregation of unit holdings outside of a particular fund is not required unless the fund is sponsored by a sponsoring entity.

The sponsor (typically the fund manager) of a range of funds acts on behalf of the funds and stands in their place in relation to meeting the FATCA obligations of the funds, however the ultimate responsibility for these obligations remain that of the Sponsored Financial Institution.

Aggregation is required across the range of funds within the same sponsoring group, where the sponsor or its service provider uses the same computerised systems to link the accounts.

In practice, a sponsor (typically the fund manager) will use a service provider (the transfer agent) to manage the client relationships of the account holders (the investors in the funds). Where different service providers are used by the same sponsor, the systems might not link account information across service providers and aggregation would only be required at the level of the service provider (transfer agent).

For example, where a sponsor manages all the client relationships through a single transfer agent, aggregation should happen at the level of the sponsor (to the extent that the system links accounts).

Where a sponsor has two fund ranges each using a different transfer agent, in practice aggregation is possible only at the fund range/transfer agent level, as this is where the client relationship is held. The sponsor would aggregate at the level of the transfer agent (to the extent that the system links accounts).

### 10.3 Currency Conversion

Accounts maintained by Reporting Financial Institutions are denominated in Qatari Riyal (QAR) and other currencies.

Where accounts are denominated in a currency other than US dollars then the threshold limits must be converted into the currency in which the accounts are denominated before determining if they apply.

In determining whether a preexisting account meets a threshold, the relevant date is the spot rate on 30 June 2014 (or, in the case of an insurance contract or an annuity contract, the most recent contract anniversary date). In determining whether a preexisting account continues to meet a threshold in subsequent years or a new account meets or continues to meet a threshold, the relevant date is the spot rate on the last day of the calendar year or other appropriate period (i.e. in the case of an insurance contract or annuity contract, the date of the most recent contract valuation). If the date in question falls on a weekend or a non-working day, the spot rate for the last working day prior to such date should be used.

In the case of closed accounts the spot rate to be used is the rate on the date the account was closed.

For reporting purposes, the account balance or value of an account may be reported in US dollars or in the currency in which the account is denominated.



**Example 1** - The threshold to be applied to QAR denominated Pre-existing Individual Depository Accounts when a published spot rate at 31 December 2014 is 0.27465 would be QAR182,049.88 ( $\$50,000/0.27465$ ).



**Example 2** - A Pre-existing Insurance Contract is valued at QAR 900,000 as of 31 May 2014. In order to be measured against the \$250,000 threshold, the Financial Institution can use the spot rate at 31 May 2014. It will be measured against the \$250,000 threshold at 31 May 2014 when a published QAR/USD spot rate is 0.2747. This would result in a threshold of QAR 910,083 ( $\$250,000/0.2747$ ) and the contract would not be reportable.

Alternatively a Financial Institution could convert non-US dollar balances into US dollars and then apply the thresholds. Regardless of the method of conversion, the rules for determining the spot rate apply.

The method of conversion must be applied consistently.

Examples of acceptable published exchange rates include, Reuters, Bloomberg, Financial Times and exchange rates published on the QCB website.