

CHAPTER
13

Compliance

13. Compliance

13.1 Compliance, monitoring and enforcement



In the State of Qatar, the IGA (signed between the Qatari Government and the US Government) itself forms the legal basis for the implementation of FATCA. The Ministry of Finance is the Competent Authority (“CA”) responsible for the overall implementation of the Agreement and compliance of the Agreement by Reporting Qatari Financial Institutions. QCB licensed entities have been issued instructions to implement and comply with the requirements of the Agreement under the provision of Article 121 of Law 13 of 2012.

The QCB FATCA Unit is the designated unit in Qatar that will enforce the collection of data and facilitate the transmission of reportable information from QCB regulated Financial Institutions to the Ministry of Finance. The Ministry of Finance will be responsible for the transmission of the reportable information to the IRS.

Any communication/queries from the IRS in relation to QCB regulated entities will primarily go to the Ministry of Finance. The Ministry of Finance will engage in discussions with appropriate IRS officials should concerns be raised in relation to the reporting of a Reporting Qatari Financial Institution. The Ministry of Finance will contact QCB to discuss or resolve matters in relation to the Agreement.

The Agreement requires all Reporting Qatari Financial Institutions to put in place adequate measures to ensure compliance, such as the Due Diligence Procedures outlined in Chapters 5 to 10 and the Reporting requirements outlined in Chapter 11. Under Article 126 of Law 13 of 2012, QCB has the authority to oversee any compliance requirements and to investigate banks with respect to this. QCB will take appropriate steps to promote compliance amongst its licensees including conducting periodic and ad-hoc reviews/visits to Reporting Qatari Financial Institutions. Any violations or breaches of the Agreement identified by the QCB FATCA Unit during such reviews/visits shall be reported to the Ministry of Finance and such Reporting Qatari Financial Institutions shall be sanctioned as per Law 13 of 2012. Further, at the discretion of the Ministry of Finance, copies of the reports issued by the QCB FATCA Unit may be sent to the Governor and to the IRS.

13.2 General Inquiries

The IRS may make follow up requests to the Ministry of Finance once it has received the reportable information. Such requests may include the account statements that summarise the activities (including withdrawals, transfers, and closures) of the US Reportable Account in question. The Ministry of Finance will contact the QCB FATCA

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Unit to obtain the required information from the respective QCB Financial Institution.

13.3 Minor Errors

The IRS shall notify the Ministry of Finance in the event that there are administrative errors or other minor errors that may have led to incorrect or incomplete information reporting or resulted in other infringements of the Agreement. The Ministry of Finance will then contact QCB FATCA Unit who will attempt to resolve the matter with the relevant QCB licensed Reporting Qatari Financial Institution.

Examples of minor errors could include:

- Data fields missing or incomplete;
- Data that has been corrupted;
- Use of an incompatible template.

Where this leads to the data having to be resubmitted, the revised return will have to be submitted via QCB FATCA Unit on the QCB FATCA Reporting Portal.

Continual and repeated administrative or minor errors could be considered as significant non-compliance where they continually and repeatedly disrupt and prevent transfer of the information. Where necessary compliance measures and penalties (see Section 13.5) may be applied by the QCB FATCA Unit.

The QCB Reporting Portal has been designed to identify some of the above minor errors, however it is the responsibility of the Reporting Qatari Financial Institution to ensure the completeness and accuracy of any data submitted through the portal.

Where a Reporting Qatari Financial Institution has a concern that an enquiry from the US extends beyond an enquiry on the quality or format of the data and potentially presents difficulties in respect of their obligations under Division 2 and 3 of Chapter 6, Articles 145 to 159 of Law 13 of 2012 then they should contact QCB.

13.4 Significant Non-Compliance

Significant non-compliance may be determined by the IRS, the Ministry of Finance or QCB.

For any significant non-compliance identified by the IRS there is an 18 month period in which the Reporting Qatari Financial Institution must resolve such non-compliance.

Where QCB is notified of or identifies significant non-compliance by a Reporting Qatari Financial Institution, it may exercise any compliance measures and/or penalties under the Agreement or as set out in this Guidance Notes.

QCB will engage with the Reporting Qatari Financial Institution to:

- Discuss the areas of non-compliance;
- Discuss remedies/solution to prevent future non-compliance; and
- Agree measures and a timetable to resolve its significant non-compliance.

QCB will inform the Ministry of Finance of the outcome of these discussions. The Ministry of Finance will in turn inform the IRS of the outcome of these discussions.

The following are examples of what would be regarded as significant non-compliance:

- Repeated failure to file a return or repeated late filing;
- Ongoing or repeated failure to register, supply accurate information or establish appropriate governance or due diligence processes;
- The intentional provision of substantially incorrect information; or
- The deliberate or negligent omission of required information.

In the event that the issues remain unresolved after a period of 18 months then the Reporting Qatari Financial Institution will be treated as a Non-Participating Financial Institution and QCB will closely monitor such entities and apply appropriate penalties/sanctions.

13.5 Penalties

As per the provisions of Law 13, any sanctions and financial penalties will be determined by QCB and will be applicable where a Reporting Financial Institution fails to provide the required information and where it provides inaccurate information.

13.6 Tax Compliance Risk Management Process

For those Reporting Qatari Financial Institutions with a Customer Relationship Manager (CRM) as part of the normal relationship management activity, the CRM should seek to understand how a business intends to meet its obligations under the Agreement and the systems and process that it has put in place.

The CRM should work with the company/entity/unit to identify and deal with any risks that could lead to non-compliance (i.e. areas of difficulty or particular risk could form part of the discussions about business systems and governance). It is also envisioned that compliance with the Agreement could form part of any Business Risk Review carried out with the business.

CRMs will be able to call on support from the designated FATCA Compliance Officer of the Reporting Qatari Financial Institution to help them to understand and address any issues identified.

For those Reporting Qatari Financial Institutions where there is no CRM, compliance activity will follow a risk based approach and will focus on those Financial Institutions where information indicates they are potentially in non-compliance with the Agreement.

Any audit of systems and processes, will encompass a review of whether or not a Reporting Qatari Financial Institution is able to correctly identify its account holders and meet its reporting obligations.

13.7 Anti-Avoidance

Under Article 5.5 of the Agreement, Qatar shall implement (as necessary) requirements to prevent Financial Institutions from adopting practices intended to circumvent the reporting required.

Financial Institutions should not adopt practices intended to avoid the reporting required under the Agreement. It is intended that any such 'arrangements' to avoid reporting will be interpreted widely and the effect of the rule is that the Agreement will apply, as if the arrangements had not been entered into.

Examples of such 'arrangements' include:

- Splitting up accounts to avoid classification as a high-value account;
- Advising account holders of US accounts to close, transfer, or withdraw from their accounts to avoid reporting;
- Intentionally failing to disclose a known US account;
- Advising account holders to remove US indicia from their account information;
- Facilitating the manipulation of account balances or values to avoid threshold;
- Repeatedly failing to file a return or repeated late filing;
- Ongoing or repeatedly failing to register, supply accurate information or establish appropriate governance or due diligence processes;
- Intentionally providing substantially incorrect information;
- Deliberately or negligently omitting required information; or
- Actively assisting Specified US Persons in avoiding their reporting obligations

