

## **FATCA overview**

Governments, through regulatory and tax revenue agencies have taken various measures to ensure the safety of financial systems and protect customers' interests. In 2010, the U.S Congress enacted the Foreign Account Tax Compliance Act (FATCA) to counter Tax Evasion by U.S. taxpayers using foreign accounts. The law took effect on 1 July 2014 and targets accounts held in any financial institution by U.S taxpayers globally.

FATCA affects both individual and entity customers based on the type of account and nature of business.

Ideally, this type of law is enforced through an Inter-Government Agreement (IGA) i.e. a Country-US agreement to implement FATCA within tax regulations of the country. Being a relatively new legislation, the Kenya Government has not signed an IGA with the US Government.

To avoid being non-compliant, I&M GROUP LTD has registered directly with the IRS and agreed to report certain information for U.S. accounts to the IRS.

I&M Group LTD (I&M) signed an agreement with the IRS to comply with FATCA. This in effect means that I&M shares information with the IRS about financial accounts held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest.

## **I&M GROUP and our customers**

All banks and financial service providers globally are required to comply with FATCA. As a regional player, I&M GROUP is committed to being fully FATCA compliant in all our locations.

We continuously review the FATCA legislation requirements, in order to ascertain what needs to be reported to the IRS. On need basis, we may contact you to request further information or documentation in order to verify your U.S Person's status under FATCA.

It is important that you respond to the requests since it is the only way that we can ensure that we have the most up to date information in our records. If you have multiple relationships with different members of the I&M GROUP, you may receive more than one request and we request you to respond to all the requests.

Please note that I&M GROUP is unable to offer tax advice. For tax-related questions, please contact your professional tax adviser or refer to the IRS website. I&M Group shall

not be liable, answerable, or accountable for any loss or damage that you may suffer as a result of your reliance on the information provided herein for any purpose other than the purpose expressly stated within this document.

### **Frequently asked questions**

#### **1. What is FATCA?**

FATCA is a legislation that requires foreign financial institutions (FFIs) to report to the IRS information about financial accounts held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest.

The aim of FATCA is to prevent US persons from using banks and other financial institutions from evading US taxation.

#### **2. Is FATCA only applicable to I&M GROUP LTD?**

No. FATCA affects all financial Institutions and various other non-financial foreign entities outside of U.S. I&M Group in in this category and is therefore required to comply with FATCA obligations. We are committed to be fully FATCA-compliant in all countries of operation and this process has been ongoing since 30 June 2014.

#### **3. Who is a US person?**

Under U.S. tax law, you are considered a U.S. person if you are:

- A citizen of the U.S. (including an individual born in the U.S. but resident in another country, who has not renounced U.S. citizenship);
- A lawful resident of the U.S. (including a U.S. green card holder);
- A person who resides in the U.S.
- You also may be considered a U.S. person if you spend a significant number of days each year in the U.S.
- U.S. corporations, U.S. estates and U.S. trusts are also considered U.S. persons.

Certain indicators that may suggest a US status for an individual or business. They are:

- US citizenship or US residence
- US place of birth
- US tax residency
- US residence address or US mailing address including US postal address boxes
- Current US telephone number

- Standing order instructions to a US address or an account maintained in the US
- Current Power of Attorney or signatory authority granted to a person with a US address
- In Care of or Hold mail address which is the sole address for the account holder

**4. What are my obligations under FATCA if I'm a US person living outside of the US?**

You are required to provide the bank with the relevant FATCA forms to certify your FATCA status.

**5. Does FATCA apply to existing customers or just new accounts?**

FATCA applies to all I&M GROUP LTD customers, whether new and existing.

**6. What will happen if I do not return the documents, I have been asked for under FATCA?**

If you don't provide us with the forms within the stated timeframe, we will report your account to the IRS as a non-compliant account until you return the documentation. Failure to provide us with the forms may also prevent us from opening new accounts and result in the possible closure of existing accounts.

**7. What are relevant forms that you are supposed to complete under FATCA?**

IRS website has provided a link with the forms but you can also visit your local branch for a printed form as below:

- W-9 form: This is the withholding certificate referred to as a 'W-9' on the IRS website completed to confirm US tax status.
- W-8 forms: There are various withholding certificates types referred to as 'W-8s' on the IRS website completed to confirm non-US tax status.

These are US tax forms which allow an account holder to make a declaration of their status either as a;

- US person (Form W-9) (Request for Taxpayer Identification Number and Certification) or,
- As a non-US person (Form W-8BEN). - (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals) or

- Form W-BEN-E (Certificate of Status of Beneficial Owner for United States Tax Withholding and reporting (Entities))
- If you want more detailed information on FATCA, please visit the IRS website or consult a professional tax adviser. You can find information about FATCA on the IRS website.