Republic Bank

1. **What exactly is FATCA?**

FATCA is rapidly becoming the global model for combating offshore tax evasion and promoting transparency. FATCA is an acronym for the United States (US) Foreign Account Tax Compliance Act (FATCA), which was introduced by the US Government in October 2009, but became law as part of the Hiring Incentives to Restore Employment (HIRE) Act on March 18, 2010. FATCA is aimed at ensuring that US persons with financial assets outside of the US are paying US tax.

Under FATCA, US Financial Institutions must withhold a portion of payments made to Foreign Financial Institutions (FFIs) (see explanation below) that do not agree to identify and report information on their US account holders.

FFIs have the option of entering into agreements directly with the US Inland Revenue Service (IRS), or through one of two alternative Model Intergovernmental Agreements (IGAs) signed by their home country. Trinidad & Tobago has entered into a Model 1 IGA in substance effective November 2014.

2. **What will be required of Republic Bank Limited?**

The Bank must:

- Undertake certain identification and due diligence procedures involving our new customers, commencing July 1, 2014;
- Report annually to the BIR information on customers who are US persons or foreign entities with substantial US ownership, commencing September 30th 2016.
- Report customers as 'Recalcitrant', who fail to provide sufficient information to determine whether or not they are a US person, commencing July 1, 2014.

3. **Why did the US introduce FATCA?**

FATCA is intended to increase transparency for the US Internal Revenue Service (IRS) with respect to US Persons that may be investing and earning income through non-US institutions. The primary goal of FATCA is to gain information about US persons.

4. **Who does FATCA affect?**

FATCA does not directly affect the ordinary Trinidad and Tobago citizen with a bank account and no ties to the US. However, if you intend to open a new account, you will be asked questions about any possible connections you may have to the U.S.

FATCA affects:

- US citizens or US registered businesses such as Limited Liability Companies, Trusts, Partnerships, Estates, etc.
- US individual residents, including **US Green Card holders**

- A very limited number of non-resident individuals who own certain foreign financial accounts or other offshore assets
- Local businesses having US ownership
- FFIs

5. **What is an FFI?**

Broadly speaking, it is any financial institution which is a non-US entity that:

- Accepts deposits in the course of a banking or similar business.
- Holds financial assets for the account of others as a substantial part of its business;
- Is engaged primarily in business of investing, reinvesting or trading in securities; and
- Is an insurance company (or the holding company of an insurance company) that issues or makes payments with respect to a financial account.

Entity types that are covered are:

- Banks
- Broker dealers
- Asset managers and investment funds
- Insurance companies other than pure property and casualty (general insurance) or pure term life entities
- Trust companies
- Other financial intermediaries (such as custodians and related service providers)
- Credit unions and cooperatives

For this purpose, a non-US entity is any entity that is not a:

- Partnership, corporation, trust incorporated or created under US law
- Non-US incorporated entity having shareholding of 10% or more OR ownership (substantial ownership) held by:
    - An individual who was born in the U.S. or is a US citizen or a US resident (including green card holder) or has a U.S. address or U.S. mailing address or US in care of or hold mail as a sole address.
    - A US incorporated entity as described above

6. **Who is a U.S. Person for FATCA purposes?**

A US person is a:

- Citizen or resident of the United States (including a green card holder).
- Partnership, corporation, estate, trust incorporated or created under U.S. law (US incorporated entity)
- Non-U.S. incorporated entity having shareholding of 10% or more OR ownership (substantial ownership)held by:
  - An Individual who was born in the US or is a U.S. citizen or a U.S. resident (including green card holder) or has a U.S. address or US mailing address or US in care of or hold mail as a sole address
  - A US incorporated entity as described above

7. **How would I know if I am a US Person under FATCA?**

There are specific indicators that determine whether you are a US Person; these are:

- US resident or citizen including **US Green Card holders**
- US Place of birth
- US home or mailing address
- Only address is a US PO Box, c/o or hold mail address

8. **Does FATCA apply to TT$ accounts?**

FATCA applies to your entire account relationship with the Bank i.e. TTD, USD and any other currencies.

9. **How will customers be advised?**

Letters will be sent to existing customers whose accounts with the Bank indicate that they are a US person.

As a new account applicant, you will be asked to complete additional documents (FATCA forms) to determine any possible connections that you may have to the US.

10. **What should you do?**

Customer	Action
FFI	a. Register with the IRS and or enter into a FFI Agreement with the IRS before April 25, 2014 as a participating FFI or such other FATCA registered status if the territory in which you are registered, has not entered into an IGA with the U.S. Government. b. Obtain an IRS issued Global Intermediary Identification Number (GIIN)
Customer	**Action**
US person/ US incorporated entity	Submit the Bank's Tax Residency Self-Certification Form (AML6A/AML6B) as the letter/branch will outline.
Non-US Person with specific US indicators	Submit the Bank's Tax Residency Self-Certification Form (AML6A/AML6B) as the letter/branch will outline.
Entity that is neither a FFI nor a US incorporated entity, but has specific US indicators	Submit the Bank's Tax Residency Self-Certification Form (AML6A/AML6B) as the letter/branch will outline.

The Bank's Tax Residency Self-Certification Form (AML6A/AML6B) must be completed by each new customer.

11. **Who is a Recalcitrant account holder?**

Generally, a recalcitrant account holder is any account holder that fails to:

a. Comply with reasonable requests for information necessary to determine if the account is held by a US person;

b. Provide the name, address, and social security number (SSN) or US Tax Identification Number (TIN) of each "US person" and each substantial US owner of a non US registered entity.

12. **What are the new FATCA forms to be completed?**

The Bank's Tax Residency Self-Certification Form (AML 6A/AML 6B) is the only form that is to be completed.

The form contains completion instructions. All Customers are to complete the form. Please note that Staff cannot provide advice to customers on what should be included in the forms.

13. **Termination of Accounts under FATCA if there is no IGA in place. How will the Bank treat with joint accounts?**

We are guided by our Mandate with the customer. Once a US person is on a joint account, the account is subject to the FATCA requirements. Hence if the US person is non-cooperative, the account must be closed if there is no IGA in place. Cheques presented for negotiation after the account is closed will be returned "Account Closed". The balance on the closed account will be paid to the customers via a Manager's Cheque in accordance with Bank's standard procedures. Where an IGA is in place the account will be kept open and will be reported through the BIR as 'Recalcitrant'.

14. **Does a Bank official need to witness my signature on the form?**

Staff members are not required to witness the FATCA form generally. However, a customer who is unable to sign the form (e.g. due to illness; differently-able persons) should seek independent professional advice. Once this is provided, a certification should be included on the form, near the thumbprint of the customer in the usual manner by the Attorney-at-Law or other independent professional advisor certifying that the document was read and explained to the customer, who then appeared to have understood and then affixed his/her thumbprint (which hand) having understood the document.

15. **How are we addressing minors e.g. minor 0-18 years (US Person) having a joint RightStart Account with an Adult (Non US Person)**

Who will sign the Bank's FATCA forms?

A child can sign once the child understands the FATCA form i.e. due to the age of the child, he or she understands the meaning of the document. If not, the parent or guardian can sign for the child i.e. a parent or guardian should sign the child's name followed by the words "By (signature), parent (or guardian) for minor child".

16. **What information will the Bank need to report to the IRS?**

- Name, address and SSN or TIN of each account holder that is a US person
- Account number

- Account balance or value as at the end of the reporting period

17. **What assurance do I have that my data will be protected when disclosed to the IRS?**

    Republic Bank has always been committed to keeping our customers' personal information confidential and secure. Our response to FATCA will be held to our standard of strict compliance with our confidentiality obligations, and our approach will reflect our longstanding commitment to customer privacy and service excellence.

    The usual disclaimers apply for disclosures made to external parties.

18. **What are the specified foreign financial assets that the IRS is interested in for those who fall under FATCA?**

    - **Financial (deposit and custodial) accounts held at Non-US financial institutions**
    - **Non US stock or securities not held in a financial account**
    - **Non US partnership interests**
    - **Non US mutual funds**
    - **Non US-issued life insurance or annuity contract with a cash-value**
    - **Non US hedge funds and Non US private equity funds**

19. **Does FATCA replace the existing US tax withholding and reporting regimes?**

    No. It does not replace the existing US tax withholding and reporting regimes. It does, however, add additional requirements to the existing regimes.

20. **I live and work in Trinidad and Tobago, but I am the holder of a US Green Card and I travel to the US every year for short periods to maintain my US Green Card status, will I be affected by FATCA?**

    FATCA will generally apply to you as a Green Card holder.

21. **But as US Green Card holder I already pay taxes in Trinidad and Tobago why I am still subject to FATCA?**

    A U.S Green Card holder is under U.S law considered a U.S taxpayer.

    Under U.S law, Green Card holders are required to declare their financial information directly to the IRS by filing a Form 8938 (Statement of Specified Foreign Financial Assets) and a Form TD F 90-22.1 (Report of Foreign Bank and Financial Accounts). These forms which you are required to do routinely actually obtain more financial information from you than FATCA. FATCA is an extra method being used by the US Government to ensure the information is collected and that it is no longer the sole responsibility of the account holder, but now responsibility also lies with the Bank.

    However as a US Green Card holder living outside the United States, as you may already know there are some special exemptions for US citizens and Green Card holders living outside the US, and the US also allows a credit for T&T taxes paid, and so there may not be any US taxes due on your local income.

Please check: http://www.irs.gov/uac/Five-Facts-about-the-Foreign-Earned-IncomeExclusion or a US tax consultant.

22. **What if I am a Green Card holder and living in Trinidad and Tobago and I have a joint account with someone?**

    If the other person(s) is not a U.S resident/ citizen or U.S Green Card holder and has no official connection to the U.S, then your account will still fall under FATCA simply because you are considered a US tax payer as the Green Card holder.

23. **What if I have different accounts at different banks each with under US$50,000, but amounting to more than that sum in total, will I be subjected to FATCA?**

    You may not be reported by each financial institution. However the IRS may detect your total balances.

24. **If I am a Trinidad and Tobago citizen with no formal connections to the United States but I have immediate family members living there and I send money via wire transfers amounting to more than US $50,000 to the United States to support them (e.g. a child at school), will I be subjected to FATCA?**

    You may be asked to sign a Bank's Tax Residency Self-Certification form) stating that you are not a US person. You may not fall under FATCA reporting requirements so the Bank may not report your financial information to the IRS.

25. **If I do not have a US Green Card but I spend several weeks each year in the United States will I be subject to FATCA?**

    You may be subjected to FATCA only if you spent eight (8) months or more in the U.S. within the last 2 calendar years. Please check your independent or US tax consultant.

26. **I live in Trinidad and Tobago and I have no official ties to the United States but I shop online using a US mailing address, which is also attached to my credit card, will I be subject to FATCA?**

    This address does not make you a US resident or citizen. However, if this is the only address on your account, you may be asked to sign a bank Tax Residency Self Certification form (AML6A/AML6B). There may be no reporting of your financial information to the IRS.

27. **Do I have a choice in the matter?**

    Once there is an IGA and the enabling local FATCA legislation in place, the account holder is compelled to co-operate. You will however face certain consequences for noncompliance in that you will be reported via our Tax authority as 'Recalcitrant'. If there is no IGA in place your account can be terminated and your application to open an account may be refused.

Republic Bank

In light of the aforementioned, we urge you to cooperate. We also encourage you to seek advice from an independent tax advisor should you need assistance in understanding the scope of these new reporting requirements, and the consequences of non-compliance.

Should you have any questions relating to the Bank's requirements, email us at email@rfhl.com.

For updates and further information on FATCA, please visit the IRS FATCA page at www.irs.gov/FATCA.

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