



For Non-participating Financial Institutions

Bern, March 20, 2015

**Information letter attached to the Reporting Swiss Financial Institution's Waiver Request, with regard to the implementation of the Foreign Account Tax Compliance Act (FATCA)**

Dear Sir or Madam,

In accordance with the implementation of the FATCA Agreement your financial services provider is required to disclose information to the US Internal Revenue Service (IRS), particularly concerning US accounts or foreign amounts with a notification requirement, which were paid to non-participating financial institutions and to which the financial institutions gave their consent to transmit the information (amounts with a notification requirement). The financial services provider is required to provide the number of accounts held by US clients, the total of the amount deposited in the accounts and the sum of the amounts with notification requirement, for which no declaration of consent was received.

Due to this reason and in accordance with Article 3 Paragraph 2 letter a of the FATCA Agreement, your financial services provider sent you a declaration of consent with regard to the reporting of your information to the IRS. By returning the validly signed declaration of consent to your financial services provider, you authorize it to communicate information to the IRS directly. This consent is irrevocable for the present calendar year and unless expressly revoked it will extend to the next following year automatically.

Please note that if the financial services provider does not receive such a declaration of consent by the mentioned date for the year 2015, your account will be considered a "Non-Consenting Account". The financial services provider will then notify the IRS by the end of January 2016 for the year 2015, respectively by the end of January 2017 for the year 2016, about the total amount of the non-participation financial institutions which did not consent to the transmitting of their information as well as the sum of the amounts with a notification requirement, without disclosing the identity of the institutions.

Based upon this information and in accordance with Article 5 of the FATCA Agreement, the IRS has the possibility to submit a group request for administrative assistance regarding "Non Consenting Accounts" to the Swiss competent authority. Such requests are based on Article 26 of the Convention of the Avoidance of Double Taxation (the "Convention") between Switzerland and the United States of America, as was amended through the Protocol of September 23, 2009. Such a request may be made once the amendments have entered into force.

In view of the mentioned information, we would like to inform you below of the procedure under Article 12 of the Federal Act of September 27, 2013 on the application of the FATCA Agreement between Switzerland and the United States of America (FATCA Law) for such group requests:

The receipt of a group request will be published in the Swiss Federal Gazette as well as on our website [www.estv.admin.ch](http://www.estv.admin.ch). At the same time of the publication we will request the financial services provider to provide us with all the relevant documents of all the “Non-Consenting Accounts”. You have the possibility to request a copy of the documents from the financial services provider at any time, from which it concluded that the requirements for the notification of an amount were satisfied and submit counter arguments. Within the set time limit you will also have the opportunity to submit a **statement regarding the transmission of your account information** to the IRS. We will take into account the possible submitted statement when drafting the final decision, which will take place approximately two to three months after receipt of the group request.

The final decision will be published anonymously in the Swiss Federal Gazette as well as on our website. The persons concerned have the possibility to obtain the final decision concerning themselves from the FTA.

The FTA's final decisions can be appealed to the Swiss Federal Administrative Court (FAC) **within 30 days** of the publication. A copy of the appeal must be sent to us at the same time.

If we conclude that an appeal is justified, we will reconsider the final decision and not transmit the information. If, however, we conclude that an appeal is unfounded, we will submit a motion to dismiss to the FAC. The FAC will then decide on the granting of administrative assistance and with it on the transmission of the information. The decision of the FAC is final.

For further information concerning this procedure, please contact us under the following address: Federal Tax Administration FTA, Service for Exchange of Information in Tax Matters SEI, Eigerstrasse 65, CH-3003 Bern, or via e-mail at [sei@estv.admin.ch](mailto:sei@estv.admin.ch).

Yours sincerely,

Service for Exchange of Information in Tax Matters



Alexandre Dumas  
Head SEI