

Information from the FTA concerning group requests in accordance with the FATCA agreement:

Requirements for the delivery of data respectively documentation

The agreement between Switzerland and the United States of America (US) on the cooperation to simplify the implementation of FATCA entered into force on 2 June 2014. The corresponding implementation Act entered into force on 30 June 2014.

In connection with the implementation of FATCA the US-competent authority can, in accordance with the information reported in aggregated form as set out by Article 3 paragraph 1(b)(iii) and paragraph 2(a)(ii) of the FATCA agreement, request all the information on US-accounts without a declaration of consent and on non-consenting non-participating financial institutions to which foreign reportable amounts were paid, which the reporting Swiss financial institution would have had to report according to a FFI contract had it received the relevant declaration of consent, by way of group requests to the Swiss competent authority. Such group requests are made in accordance with Article 26 of the double taxation agreement in the version, which was amended by the Protocol of 23 September 2009. Therefore, such requests will not be made before the entry into force of the Protocol and are only applicable to information that covers the time-period from the entry into force of the FATCA agreement (Article 5 paragraph 1 of the FATCA agreement).

When the FTA, as the competent Swiss authority, receives such a group request it will request the information holding financial institution to identify the account holders or the non-participating financial institutions concerned and to provide the FTA with the information set out in Article 3 paragraph 1 of the FATCA agreement within the deadline of 10 days (Article 5 paragraph 3 letter a FATCA agreement).

In addition to the reportable data in electronic form (FATCA-XML) the FTA will request the reporting Swiss financial institution to provide the FTA separately, within the same deadline, with **documents enabling the FTA to verify whether it is in fact a reportable account** (Article 12 paragraph 2 of the Federal Act of 27 September 2013 on the implementation of the FATCA agreement between Switzerland and the United States of America [FATCA law, SR 0.672.933.6]). The FTA defines the requirements of the documents, which are to be provided by the reporting Swiss financial institution in order for the FTA to verify whether it is in fact a reportable account.

Summing up the FTA is to be provided with the following documents:

1. FATCA-XML;
2. So called SEI-XML (additional information, which the FTA is to be provided with in a XML file); and
3. Additional documents, which the FTA is to be provided with in form of a PDF file.

Please refer to the documentation published by the FTA under <https://www.estv.admin.ch/estv/en/home/internationales-steuerrecht/fachinformationen/amts-und-rechtshilfe/amtshilfe-nach-fatca.html> («FATCA Information Delivery», «FATCA Credential Form» und «SEI-XML») for the detailed requirements.