

Regulatory information concerning FATCA and Automatic Exchange of Information (AEOI)

Disclaimer

The information below are general and non-binding information and they are not a substitute for professional advice. They have been drafted with the greatest possible precision but cannot take into account the particular circumstances of each case. The reader is responsible for its use. Any liability of Cité Gestion SA is excluded.

FATCA

The *Foreign Account Tax Compliance Act* (FATCA) is an US tax law that came into force on July 1st, 2014. Initially enacted as a US law with extraterritorial scope, FATCA was incorporated into Swiss legislation by the signature of [an Intergovernmental Agreement](#) (IGA) between Switzerland and USA, and the entry into force of the Swiss FATCA law on June 30th, 2014. The purpose of the FATCA is to prevent any possible tax evasion to the detriment of the United States.

Under FATCA, it is the responsibility of financial institutions holding accounts, including Cité Gestion SA, to verify whether, in the case of account holders and in this context of controlling persons over legal entities or trusts, there are indicia that they are taxable in the United States (determination of "FATCA status"). The determination of the FATCA status of account holders and controlling persons over legal entities or trusts is a legal obligation of financial institutions holding accounts. The latter are also legally required to document the FATCA status. To this end, they must be provided with a form showing the FATCA status. As a complement or alternative and depending on the FATCA status, specific American forms (e. g. W-8BEN-E, W-8IMY) are to be signed. The form must be submitted to the financial institution even if the account holder has no connection with the United States.

In the case of an account unrelated to the United States, no data of the account holder is communicated to the US tax authorities. In the case of an account attributable to a U.S. person, the financial institution holding the account must also obtain from the account holder or controlling persons over legal entities or trusts the IRS Form W-9, as well as a declaration of consent to the disclosure of specific account information to the U.S. tax authorities.

If the account holder consents to the disclosure of his account data, the financial institution holding the account shall periodically disclose to the US tax authorities the data required by law. If the account holder does not give his consent, the financial institution holding the account shall not communicate any specific data concerning the account. It is then required to communicate to the US tax authorities, in aggregate, the number and total amount of assets of all accounts that are linked to the United States but for which the holders have not given their consent. On the basis of the communication in aggregate form, the US tax authorities may then request administrative assistance from Switzerland to obtain specific account data.

Therefore, under FATCA, the United States is only provided with specific data relating to an account if that account is linked to the United States, provided that the account holder has explicitly given his consent to

the disclosure of the data or that administrative investigations are ongoing in relation to specific tax matters. However, the latter case presupposes an administrative or legal assistance procedure.

The new rules resulting from the FATCA do not only apply to Swiss financial institutions. They must be implemented and respected at the international level, in all relevant financial centres.

STATE SECRETARIAT FOR INTERNATIONAL FINANCE (SIF)

<https://www.sif.admin.ch/sif/fr/home/bilateral/amerika/vereinigen-staaten-von-amerika-usa/fatca-abkommen.html>

Automatic Exchange of Information (AEOI)

The Common Reporting Standard (CRS) for reporting and due diligence in financial account information, as implemented by the Organization for Economic Co-operation and Development, and the Swiss Federal Law on Automatic Exchange of Information in Tax Matters entered into force on 1 January 2017 in Switzerland.

Currently, more than 100 countries have committed to adopt the CRS. The CRS requires all Swiss financial institutions, including Cité Gestion SA, to identify the accounts subject to declaration and to report them annually to the Federal Tax Administration (FTA). On receipt of this information, the FTA communicates them to the relevant jurisdictions of residence, provided that said jurisdiction is a jurisdiction with which Switzerland has agreed to apply CRS (Partner Jurisdiction). The updated list of Partner jurisdictions with which Switzerland has agreed to apply CRS can be consulted by following the link referenced at the bottom of the page. This list is intended to be updated each year on the basis of the new CRS implementation agreements concluded by Switzerland.

The information to be reported includes personal data as well as data relating to the reportable accounts. The relevant personal data are the name, the address, the jurisdiction of tax residence, the tax identification number and the date of birth of the beneficial owner. The relevant financial information to be reported are the total valuation of the account and the amounts of payments into the account.

According to Swiss law (AEIA) and data protection regulations (DPA), you have various rights of appeal and remedies: (1) towards Cité Gestion, you can assert all the legal remedies provided by the DPA against Cité Gestion. Among other things, you can ask which specific data will be reported to the FTA. You can ask Cité Gestion for a copy of its declaration to the FTA. Regarding this, it should be noted that the data collected and reported may differ from the relevant tax data concerning you. You can also request the rectification of inaccurate data in the system of Cité Gestion ; (2) towards the FTA, you can assert your right of access to the data and request the rectification of inaccurate data as a result of a transmission error at the FTA. If due to a lack of guarantee (legal guarantee) of the rule of law the data transmission causes you unreasonable damage, you can assert the claims set out in Art. 25a of the Federal Administrative Procedure Act. However, you do not have the right to consult the file at the FTA. This excludes the right to block the disclosure of personal data to the FTA. In addition, you may not control the legality of the communication of the information abroad nor request the proscription of an unlawful disclosure and/or the destruction of processed data without a sufficient legal basis.

If you are a co-contractor of Cité Gestion but not directly the account holder, or if you are an entity for which the obligation of identification and declaration of the Financial Intermediary extends to one or more people holding the control of the account, we kindly ask you to provide a copy of this letter to those concerned.

For more information, Cité Gestion SA invites you to consult a specialist advisor or to find out about CRS information on the FTA and OECD websites (see link below).

STATE SECRETARIAT FOR INTERNATIONAL FINANCE SIF (LIST OF THE SWISS PARTNER JURISDICTIONS)

<https://www.sif.admin.ch/sif/fr/home/themen/internationale-steuerpolitik/automatischer-informationsaustausch.html>.

FTA WEBSITE ON CRS

<https://www.efd.admin.ch/efd/fr/home/themen/wirtschaft--waehrung--finanzplatz/finanzmarktpolitik/echange-automatique-de-renseignements--ear-.html>

OECD WEBSITE ON CRS

<http://www.oecd.org/tax/automatic-exchange/about-automatic-exchange/>