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CARIBBEAN REGIONAL COMPLIANCE ASSOCIATION

Navigating the Sea of Forms and Filings for the Seemingly Monstrous Initiative known as FATCA

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INTRODUCTION

To assess which forms are needed to be FATCA compliant, there are three questions you should first answer:

- 1. What IGA model has your country signed?**
- 2. What type of institution do you work for?**
- 3. Who is your client? A US person OR Non US person**



IGA Model Type 1 and Model 2

- If your country has signed a Model 1 IGA then your forms will be sent to your home country's tax authority, who will submit them to the IRS.**
- If your country has signed a Model 2 IGA your institution will have a Responsible Officer who has the task of submitting the forms to the IRS.**



Institutions That Have To Comply with FATCA

- **US Withholding Agents (USWA)**
- **Foreign Financial Institutions (FFI's)**
- **Non Financial Foreign Entities (NFFEs)**

WHICH ONE DO YOU WORK FOR?

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US Withholding Agents (USWA)	US entity that has control, receipt, custody disposal or payment of any withholdable payments
Foreign Financial Institutions (FFIs)	Non US entity that accepts deposits, holds financial assets for the account of others as a substantial part of its business, or engages primarily in the business of investing or trading securities, commodities, partnerships or any interests in such positions
Non Financial Foreign Entities (NFFEs)	Includes any foreign entity that is not a FFI or is not on the EXCEPTED entities list as stated on the IRS website
US Persons	US Citizens, US residents (e.g. Green card holder) and non resident aliens who meet the substantial physical presence test



Types of IRS Forms

- **W-8BEN**
- **W-8BEN- E**
- **W-8IMY**
- **W-9**
- **8966**
- **1042**
- **Self Certification Forms**



When should the W-8BEN be completed

- **Completed when the beneficial owner of an account is a Foreign Individual**



When should the W-8BEN-E be completed

- **Completed when the beneficial owner of an account is a Foreign Entity**



When should the W-8IMY be completed

- **Completed when the beneficial owner of an account is a Foreign Intermediary, Foreign Flow-Through Entity or Certain US Branches**



When should the W-9 be completed

- **Completed when the beneficial owner of an account is a US Person with a Taxpayer Identification Number (TIN)**



When should Form 8966 be completed

- This is a FATCA report that should be completed by persons who must report information with respect to certain US accounts, substantial US owners of NFFEs, US accounts held by owner-documented FFI's and certain other accounts as applicable based on the filer's chapter 4 status.**



When should Form 1042 be completed

- Completed when filing withholding tax return for US sourced income of Foreign Persons, including non resident aliens, foreign partnerships, foreign corporations, foreign estates and foreign trusts, or 2% excise tax due on specified foreign procurement payments.**



Self Certification Forms –Non-US Approved

The IRS have recently updated their website to address the language in the Model 1 IGAs and define what it considers to be “a similar agreed form”.

It essentially says that if the W-8 or W-9 is not used the self-certification will have to conform to the requirements of a substitute W-8 or W-9, including the penalties of perjury language contained in the official IRS forms.



Self Certification Forms –Non-US Approved cont'd

However, the size and complexity of the substitute form can be significantly reduced by limiting the number of FATCA classifications listed on the form. If the financial institution uses a substitute form, it must create instructions to accompany the form consistent with instructions provided for the official forms.



**All of the forms and the instructions necessary
for their completion can be found on the IRS
website:**

www.irs.gov/Forms-&-Pubs

***The IRS is constantly updating their forms and
website so be sure to keep checking it for the
most current information.**



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