**INFORMATION REGARDING FATCA AND THE COMMON REPORTING STANDARDS FOR AUTOMATIC EXCHANGE OF INFORMATION**

The purpose of this document is to inform clients that the information relating to them will be collected, transferred and retained in accordance with the amended Cooperation with other Jurisdictions on Tax Matters Regulations (Legal Notice 295 of 2011, as amended; the “**Regulations**”).

This document contains a summary of the due diligence and reporting requirements applicable to Sparkasse Bank Malta p.l.c. (the “**Bank**”, **“we”** or **“us”**) under:

1. the regulations implementing the Agreement between the Government of the Republic of Malta and the Government of the United States of America regarding the Foreign Account Tax Compliance Act (“**FATCA**”); and
2. the Common Reporting Standard for the automatic exchange of financial account information (“**CRS**”), and provides information clients are entitled to under the Data Protection Act (Chapter 440 of the Laws of Malta).

This document is not meant to be exhaustive and does not purport to give tax or legal advice. As the Bank is not in a position to provide tax or legal advice, it is recommended that clients consult with their own tax and legal advisors on the implications of CRS and, or FATCA and their rights under the Data Protection Act.

1. **FATCA**

The FATCA provisions derive from U.S. legislation aimed at reducing tax evasion by citizens of U.S. It requires financial institutions outside the U.S., such as the Bank, to provide information about their U.S. customers to the U.S. Internal Revenue Service. A 30% withholding tax is imposed on the U.S. source income of any financial institution that fails to comply with FATCA.

Definitions of the various capitalised terms used in relation to FATCA can be found in the [FATCA Agreement](http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12163&l=1) (as defined in the Regulations)[[1]](#footnote-1), and in the [Guidelines](https://ird.gov.mt/regulations/fatca.aspx)[[2]](#footnote-2) issued by the Inland Revenue Department.

For the purposes of FATCA, we are obliged to identify U.S. Reportable Accounts, namely accounts maintained by us and identified by us as being held by one or more Specified U.S. Persons or by a Non-U.S. Entity with one or more Controlling Persons that is a Specified U.S. Person. The term “Specified U.S. Person” means a U.S. Person, other than certain persons specifically excluded from the definition in the FATCA Agreement. The term “U.S. Person” refers to a U.S. citizen or resident individual, a partnership or corporation organized in the United States or under the laws of the United States or any State thereof, a trust if (i) a court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States.

In order to identify U.S. Reportable Accounts and accounts held by Non-participating Financial Institutions, we have to apply due diligence procedures specified in the FATCA Agreement and collect information on Specified U.S. Persons. For this purpose, clients are required to complete the relevant self-certification form provided by the Bank.

We need to report the information listed below with respect to each U.S. Reportable Account, to the Malta Commissioner for Revenue annually:

1. the name, address, and U.S. TIN of each Specified U.S. Person that is an Account Holder of such account and, in the case of a Non-U.S. Entity that, after application of the due diligence procedures, is identified as having one or more Controlling Persons that is a Specified U.S. Person, the name, address, and U.S. TIN (if any) of such entity and each such Specified U.S. Person; (or, for certain pre-existing accounts, date of birth;)
2. the account number;
3. the name and identifying number of the Bank (as Reporting Malta Financial Institution);
4. the account balance or value as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year, immediately before closure;
5. in the case of any Custodial Account:
6. the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
7. the total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Bank (as the Reporting Malta Financial Institution) acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
8. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
9. in the case of any account not described in paragraph (5) or (6), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Bank (as the Reporting Malta Financial Institution) is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

The information will be reported to the Maltese Commissioner for Revenue, which will in turn report the information to U.S. Internal Revenue Service. The information exchanged must identify the currency in which each relevant amount is denominated.

We have to maintain the information with respect to all U.S. Reportable Accounts; the information must be retained for a minimum period of five years starting from the end of the year to which such information relates.

1. **CRS**

Definitions of the various capitalised terms used in relation to CRS can be found in Section VIII of Annex I to the [Cooperation with other Jurisdictions on Tax Matters Regulations](http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11696&l=1)[[3]](#footnote-3), and in the [Guidelines](https://ird.gov.mt/taxguides/crs.aspx)[[4]](#footnote-4) issued by the Inland Revenue Department.

***Collection and transfer of information under CRS***

As a Reporting Malta Financial Institution, the Bank is required to collect and report information and follow due diligence procedures in accordance with EU Council Directive 2014/107/EU and the Common Reporting Standard (CRS) for the automatic exchange of financial account information, as transposed in the Regulations.

We are required to apply due diligence rules and collect information in respect of Financial Accounts, irrespective of the relevant person’s territory of tax residence. In principle, all accounts maintained by the Bank in which cash or Financial Assets are held, will be treated as Financial Accounts, except for certain Excluded Accounts.

We are required to report financial information in respect of Reportable Accounts, namely Financial Accounts that are maintained by us and that are identified by us as being held by (i) one or more Reportable Persons or (ii) a Passive Non-Financial Entity (Passive NFE) with one or more Controlling Persons which are Reportable Persons. Essentially, a Reportable Person is an individual or entity resident in a reportable jurisdiction for tax purposes under the tax laws of that jurisdiction, unless it is specifically excluded as a reportable person (for example, a company whose stock is regularly traded on an established securities market or a Financial Institution).

Additional information needs to be reported in respect of a Reportable Account if the account holder is a Passive NFE with one or more Controlling Persons that are Reportable Persons. A Passive NFE is (i) an entity that is not a Financial Institution and that is not an Active NFE, or (ii) an Investment Entity that is not a Participating Jurisdiction Financial Institution, managed by another entity. The definition of Active NFE basically excludes entities that receive substantial passive income or hold substantial amounts of assets that produce passive income (dividends, interest, rents, etc.), and includes entities that are publicly traded (or related to a publicly traded entity) and holding NFEs of non-financial groups. A Controlling Person is the natural person (an individual) who exercises control over the entity concerned; for example, in the case of a trust, this would be the settlor(s), trustee(s), protector(s) and beneficiaries or classes of beneficiaries.

We need to carry out due diligence in respect of Pre-Existing Accounts (as at 31st December 2015) and New Accounts (opened on or after 1st January 2016) in order to identify Reportable Accounts. For this purpose, clients opening New Accounts are required to complete the relevant self-certification form provided by the Bank:

* if the Account Holder is a natural person (individual): the “Individual tax residency self-certification form”;
* if the Account Holder is an entity: the “Entity tax residency self-certification form”;
* if the Account Holder is Passive NFE, for each Controlling Person: the “Controlling Person tax residency self-certification form”.

As a rule, we have to report financial information with respect to a Reportable Account annually, in the calendar year following the year to which the information relates, as from 1st January 2016. The information to be reported includes, for instance: name, address, country of residence, Tax Payer Identification Number (TIN) and date and place of birth of Reportable Persons, account numbers, account balances or values, total gross amount of interest, dividends and other income and proceeds of sale or redemption of assets paid or credited to the account.

The information will be reported to the Maltese Commissioner for Revenue, which will in turn report the information to its counterparts in taxpayers’ jurisdictions within the EU or other countries with which Malta or the EU has agreed to exchange information under CRS (Participating Jurisdictions).

We are required to keep records of all the documentation and information we collect to meet our reporting and due diligence obligations for at least five years but no longer than nine years, from the end of the year to which the information relates.

***Data protection***

Insofar as the information constitutes “personal data”, the exchange of information will be subject to the provisions of the Data Protection Act (Chapter 440 of the Laws of Malta). However, pursuant to regulation 21(1) of the Regulations, the provisions of articles 7, 19, 20(1), 21 and 35 of the Data Protection Act do not apply, as the provision of such information constitutes a necessary measure in the interest of taxation matters.

Clients are hereby informed that the information relating to Reportable Persons referred to in regulation 13(2) of the Regulations will be collected and transferred in accordance with the Regulations. Regulation 13(2) of the Regulations states that the competent authority in Malta shall, by automatic exchange, communicate to the competent authority of any other EU Member State, the following information regarding taxable periods as from 1st January 2016 concerning a Reportable Account of residents in that other Member State:

1. the name, address, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence rules consistent with the Annexes, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;
2. the account number;
3. the name and identifying number of the Bank (as the Reporting Financial Institution);
4. the account balance or value as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
5. in the case of any Custodial Account:
6. the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
7. the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Bank (as Reporting Financial Institution) acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
8. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
9. in the case of any account not described in paragraph (e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Bank (as Reporting Financial Institution) is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period:

Provided that for the purposes of exchange of information under regulation 13(2), unless otherwise foreseen in regulation 13(2) or in the Annexes to the Regulations, the amount and characterisation of payments made with respect to a Reportable Account shall be determined in accordance with Maltese legislation.

The competent authority in Malta will transfer the same information concerning Reportable Accounts to Participating Jurisdictions outside the EU, if the Reportable Person is tax resident there.

Further information related to data protection and individuals’ rights as a data subject can be found in the General Terms and Conditions for Banking Services.

*Sparkasse Bank Malta public limited company is licensed to act as a credit institution and to provide investment services by the Malta Financial Services Authority. Sparkasse Bank Malta public limited company is a public limited liability company registered under the laws of Malta, with registration number C27152 and with registered office and head office at 101 Townsquare, Ix-Xatt Ta’ Qui-Si-Sana, Sliema SLM 3112, Malta.*

1. <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12163&l=1> [↑](#footnote-ref-1)
2. <https://ird.gov.mt/regulations/fatca.aspx> [↑](#footnote-ref-2)
3. <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11696&l=1> [↑](#footnote-ref-3)
4. <https://ird.gov.mt/taxguides/crs.aspx> [↑](#footnote-ref-4)