



Client information

FATCA and AEI information for entity clients with a banking relationship in Switzerland

Tax transparency has become an increasingly important theme over the last several years. While the Foreign Account Tax Compliance Act (FATCA) was implemented some years ago, the Automatic Exchange of Information (AEI) became effective in Switzerland on 1 January 2017.

This document is intended to inform you as required under Article 14 of the AEI Act¹ and provide you with important information regarding FATCA and AEI and how they work. If you have concerns about your tax obligations please consult your legal or tax advisor. UBS Switzerland AG (UBS) does not provide legal or tax advice.

What are the aims of FATCA and AEI?

FATCA was enacted by the United States (US) to prevent and detect tax evasion by US taxpayers who are holding financial accounts outside the US.

AEI is a global initiative that builds on the FATCA framework and is led by the Organization of Economic Co-Operation and Development (OECD). It aims to establish a universal standard for automatic exchange of tax-related information and thereby increases tax transparency.

How is UBS supporting each regulation?

UBS is committed to full compliance with tax transparency initiatives and will fully comply with its FATCA and AEI obligations.

UBS is a reporting Swiss financial institution in accordance with the FATCA Act and the AEI Act, which are the legal bases for implementing FATCA and AEI in Switzerland.

What are the starting dates for FATCA and AEI in Switzerland?

FATCA came into force on 1 July 2014. As of 1 January 2017 all reporting Swiss financial institutions, including UBS, implemented the AEI. Switzerland exchanges data from 2018 onwards with countries with which a reciprocal agreement is in place (i.e. Reportable Jurisdictions). To see which countries have signed an AEI agreement with Switzerland, please visit www.ubs.com/aei-ch.

How do FATCA and AEI requirements impact you as a UBS client?

Entity clients of UBS are requested to complete and sign a Self-certification form for each banking relationship. Since FATCA and AEI are similar with respect to the classification of entities, UBS has developed a combined Self-certification form.

By signing the form you certify the respective FATCA and AEI classification, the tax residence/s and Taxpayer Identification Number/s (TIN) of your entity and that your entity complies with the requirements and obligations of both regulations.

Where a specific FATCA classification or combination of FATCA and AEI classification is not covered in the combined form, separate UBS Self-certification forms for FATCA and for AEI are available.

Who reports what data under FATCA and AEI?

Reporting under FATCA

UBS must report US taxpayers directly to the US tax authority, the Internal Revenue Service (IRS).

Reporting under AEI

As a reporting Swiss financial institution, UBS must determine the tax residence/s of all its clients.

Each year, UBS will be required to report to the Swiss Federal Tax Administration (FTA) information regarding relevant entity account holders that are tax resident in a Reportable Jurisdiction. If an account is held in a fiduciary capacity² on

¹ Swiss Federal Act on the International Automatic Exchange of Information in Tax Matters (AEI Act)

² By a natural person or an entity that is not a financial institution

behalf of or for the account of a third party, that third party or the Beneficial Owner is deemed to be the account holder for the purposes of AEI. In certain cases, UBS must also report the Controlling Persons of entity account holders (see below for further details). The FTA will then send the information received from UBS to the tax authority in the relevant Reportable Jurisdiction/s.

Under AEI, UBS must report identification data for account holders or Controlling Persons (including name, address, country of tax residence, TIN, date of birth (if applicable)), account information (account number, aggregate balance or value of the account at the end of the year, investment income including total gross amount of interest, dividends or other income and total gross proceeds from sales or redemptions) and name and identification number of UBS. If an entity classifies as a Financial Institution (FI), the entity itself may be responsible to report relevant account holders to its local tax authority (more information on entity classifications and reporting consequences are provided in the table at the end of the factsheet).

The country receiving the reportable information may only use it for tax purposes. In principle and within the statutory framework, it is prohibited for the entity's / Controlling Person's country of tax residence to forward this information to another jurisdiction or to make it available to a person or authority that is not responsible for handling or supervising taxation. The information must be treated as confidential.

What are your rights?

As the account holder or Controlling Person, you have the following rights under the **AEI Act** and the **Swiss Federal Act on Data Protection (FADP)**:

Vis-à-vis UBS

- You are entitled to the full extent of legal protection offered by the FADP. In particular, you have the right to request what information UBS has collected about you and will report to the FTA. In this regard, it must be noted that information reported under AEI may differ from tax relevant information.
- UBS provides yearly AEI client statements upon request. The statement lists the information which has been reported to the FTA.
- You are also entitled to request that incorrect data in our systems are corrected.

Vis-à-vis the FTA

- Your right vis-à-vis the FTA is to access information. You are entitled to request that incorrect data resulting from errors in the exchange process are corrected.
- If the exchange of information would result in disadvantages for you that are not permissible due to a lack of constitutional guarantees, your rights are set out

in Article 25a of the Federal Act on Administrative Procedure.

- You do not have the right to access FTA records. This means that you do not have the right to block the disclosure of personal details vis-à-vis the FTA. In addition, you are not entitled to have the legality of forwarding information outside Switzerland reviewed or to block any illegal forwarding and / or to demand the destruction of data processed without a sufficient legal basis.

What do you need to do?

If you receive a Self-certification form from UBS, please complete, sign and return this form and provide any required supporting documents UBS might request.

If, in your capacity as contracting partner of UBS, you are not the account holder for the purposes of AEI (see «Who reports what data under FATCA and AEI?»), or if you are an entity for which UBS is required to identify and report one or more Controlling Persons, we ask you to forward copies of this document to all of the relevant persons.

Please also remember that AEI reporting through financial institutions like UBS does not replace your duty to file tax returns with the relevant tax authority.

What happens if the entity client does not react?

FATCA

Any non-US entity that does not complete a Self-certification form is generally classified as a Non-Participating Foreign Financial Institution (NPFPI). If an NPFPI holds US securities³, a 30% withholding tax must be applied to the US source income (for example, dividends and interest payments).

AEI

If an entity client does not provide a Self-certification form, it will be classified as a Passive Non-Financial Entity (Passive NFE). In these cases UBS must report the entity and / or all Controlling Persons to the FTA based on the information that is available to UBS.

Want to know more?

To find out more about AEI and FATCA and download our Self-certification forms, please visit www.ubs.com/aei-ch.

³ In general terms, US securities under FATCA are equities of US companies, bonds and investment funds from US issuers. A non-US investment fund (e.g. Luxembourg SICAV) generally is not considered a US security under FATCA.

Key Terms

What does the term «Controlling Person» mean?

The term «Controlling Person» means any natural person who exercises control over an entity and generally includes all natural persons identified on designated forms for Anti Money Laundering / Know Your Client purposes (i.e. Forms A, K, S and T).

What are «Participating Jurisdictions»?

From Switzerland's perspective, Participating Jurisdictions are those jurisdictions with which Switzerland has an AEI agreement in place. A list of all Participating Jurisdictions can be found under www.ubs.com/aei-ch.

What does «professional management» mean for the purpose of FATCA and AEI?

Unless there is an exception under applicable law, FATCA and AEI generally consider an entity to be professionally managed if another financial institution (such as a bank, asset manager or trust company) either directly, or indirectly through a third-party service provider, performs with discretionary decision-making authority certain services on the entity's behalf. These might include:

- Trading in financial instruments;
- Portfolio management (e.g. UBS discretionary mandate); or
- Otherwise investing, administering, or managing funds, money, or financial assets on behalf of the managed entity.

In this context, the services performed in a discretionary mandate are considered relevant activities. This means that FATCA and AEI will generally consider a domiciliary company, trust, foundation or similar private investment entity to be professionally managed, and qualify as a Financial Institution, if it has a:

- UBS discretionary mandate; or
- Discretionary mandate with any other financial institution.

FATCA and AEI consider an entity to be professionally managed even if only parts of its assets are professionally managed.

Entity clients that are classified as Professionally Managed Investment Entities (PMIEs) and that are tax resident in a Participating Jurisdiction are treated as Financial Institutions. As such they may have their own documentation and reporting obligations under AEI.

Simplified illustration of FATCA / AEI categories and reporting consequences

Entities can generally be categorized within four main types: Operating Non-Financial Entities, Financial Institutions and Non-Operating Entities which either are professionally managed or not. Depending on their category, entity clients and UBS have different reporting obligations under FATCA and AEI.

Category		Client type examples	FATCA reporting		AEI reporting	
			By entity client	By UBS	By entity client	By UBS
Operating	Non - Financial Entity	<ul style="list-style-type: none"> Operative commercial or manufacturing business (e.g. bakery, flower shop) Nonprofit organization (e.g. charity) Association (e.g. sports club, music association) 	n/a	n/a	n/a	UBS will report the entity client if it is resident in a Reportable Jurisdiction
		<ul style="list-style-type: none"> Governmental entity International organization Publicly traded non-financial entity 			n/a	
	Financial Institution	<ul style="list-style-type: none"> Bank, custodian, broker Life insurance company Financial Intermediaries Asset Manager, Family Office 	Entity client must report its clients if they are US Persons (unless the client entity is a non-reporting or deemed-compliant foreign FI)	n/a	Entity client must report its clients if they are Reportable Persons (unless the entity client is a non-reporting FI)	n/a
Non-Operating	Professionally managed	Personal investment company (PIC), trust, foundation or underlying company of which the assets are managed by another financial institution or that have entered into a discretionary portfolio management mandate with UBS or any 3rd party financial institution	Another entity (e.g. a sponsor or UBS) can take on the FATCA reporting responsibility	UBS might agree to take on the entity client's FATCA reporting responsibility and report its owners if they are US Persons		<ul style="list-style-type: none"> If the entity client is tax resident in a Participating Jurisdiction: No reporting by UBS If the entity client is tax resident in a Non-Participating Jurisdiction: UBS will report the Controlling Persons if they are tax resident in a Reportable Jurisdiction
	Non - professionally managed	PIC, trust, foundation or underlying company with no professional management of its assets	n/a	UBS will report the Controlling Persons if they are US Persons	n/a	UBS will report the entity client and its Controlling Persons if they are tax resident in a Reportable Jurisdiction

January 2019

UBS Switzerland AG does not provide legal or tax advice and this publication does not constitute such advice. UBS strongly recommends all persons considering the information described in this publication obtain appropriate independent legal, tax and other professional advice. This publication is for your information only and is not intended as an offer, or a solicitation of an offer to buy or sell any product or other specific service. Although all pieces of information and opinions expressed in this publication were obtained from sources believed to be reliable and in good faith, neither representation nor warranty, expressed or implied, is made as to its accuracy or completeness. The general explanations included in this publication cannot address your personal situation and financial needs. All information and opinions are subject to change without notice. Approved and issued by UBS, this publication may not be reproduced or copies circulated without prior authority of UBS.