

## GUIDANCE

for completing the FATCA - DAC2/CRS joint tax residence declaration

Hungary committed in October 2014 to apply the multilateral Agreement (Competent Authority Agreement and **Common Reporting Standard**, hereinafter: „**CRS**”). between competent authorities on the automatic exchange of information on Financial Accounts developed by the OECD.

Subsequently, the Council of the European Union required Member States to apply rules similar to the CRS in Directive 2014/107/EU (hereinafter: "DAC2"), which provides for the amendment of Directive 2011/16/EU as regards the mandatory automatic exchange of information in the field of taxation.

Under the agreement between the governments of Hungary and the United States of America (hereinafter referred to as the "US"), signed on 4 February 2014 and published on 15 May 2014 (hereinafter referred to as the "Agreement"), both countries have committed that the financial institutions registered in their own country (banks, investment service providers, insurance companies, etc.) provide annual data on clients and their accounts who are residents under the law of the other country.

According to the above, both the existing and the new client will have to make a joint tax declaration during the due diligence and identification process at OTP Bank under the provisions of Act XXXVII of 2013 on certain rules of international administrative cooperation in tax and other public charges (hereinafter referred to as the Act), and Act XIX of 2014 on the promulgation of the Agreement between the government of Hungary and the government of the US on the promotion of international tax compliance and the promulgation of the Agreement on the implementation of the FATCA regulation (**Foreign Account Tax Compliance Act**), and also the provisions of Act XIX of 2014 amending certain related acts (hereinafter: FATCA Act).

During the application of **CRS/DAC2**, an account holder who, on 31 December 2015 or, in the case of New entrant Affected states, on the last day of the tax year preceding the year of inclusion in Annex 1 of the Act promulgating the Agreement, did not have a live bank account (payment account, savings account), securities account or deposit book (hereinafter collectively referred to as "account") with OTP Bank, is considered a **New client**. At the time of opening the account, OTP Bank shall determine the tax residence of the New client. In any case, the New client is required to make a written declaration of tax residence. The Bank does not enter into contractual relations with New clients who do not declare their tax residence.

OTP Bank determines the tax residency of its clients, who on 31 December 2015 or, in the case of New entrant Affected states on the last day of the tax year preceding the tax year of inclusion in Annex 1 of Act CXC of 2015 on the promulgation of the multilateral Agreement between competent authorities on the automatic exchange of information on Financial Accounts have an account with the Bank (**Existing client**), by verifying the tax residency data of the Affected state/New entrant Affected state (hereinafter referred to as the "**indicator**") and obtaining the tax declarations of the clients as follows:

In checking its records, OTP Bank examines which of its existing clients have data referring to Affected state(s) / New entrant Affected state(s).

The following indicators are taken into account during the check:

### Existing client

- residential address (which is the address of the registered place of residence or place of stay) and the mailing addresses associated with its accounts held by the Bank,
- valid tax authority certificate of residence
- phone number, if there do not have a Hungarian phone number,
- address of the authorized representative (which is the address of the registered place of residence or the place of stay)

According to the Act's regulations OTP Bank offers the opportunity to its existing clients to declare a tax residence different from the tax residence established by the Bank based on the indicators, **in the context of a counter-evidence procedure** supported by the tax declaration and documentary evidence (valid certificate of residence from the tax authorities and a valid identification document). If only the address of the existing client's authorized representative refers to the Affected state, in that case it is sufficient if the client makes a tax declaration to the Bank as part of the counter-evidence procedure or supports with documentary evidence its tax residency other than the tax residency established by the Bank on the basis of the indicators.

OTP Bank is also entitled to request tax declarations from existing clients in order to confirm tax authority in the Affected state.

From May 1 of each current year (in 2017 from June 1), OTP Bank determines the tax status of existing clients based on the indicators, until the relevant client makes a valid tax declaration to the Bank.

In the course of the application of **FATCA** in Hungary, an account holder/deposit holder who is an individual (hereinafter referred to as an account holder) is a **US person** if:

- a) a US citizen, or
- b) is a US resident (the definition of a US resident is set out in the current "FATCA Announcement for natural persons", which is available on the website of OTP Bank Plc: <https://www.otpbank.hu/portal/en/Retail>).

The following data (**US indicator**) available to OTP Bank Plc (hereinafter referred to as the "Bank"), **indicate** a connection to the United States and thus **US tax residence**:

- a) the account holder has a US federal tax identification number (IRS tax identification number), or
- b) have a permanent residence and/or mailing address in the US, or
- c) place of birth is the USA, or
- d) have a phone number in the USA, or
- e) the account holder has specified a permanent representative for any product who has a permanent residence and/or mailing address in the USA.

The Bank consider for the purposes of FATCA all the account holders as US tax residents who qualifies as such as described above.

It is the responsibility of the account holder to prove the contrary with creditworthy documents and a statement made by the account holder. The list of documents to be submitted is set out in the document entitled "FATCA Announcement for natural persons", which is available on the website of OTP Bank Plc: <https://www.otpbank.hu/portal/en/Retail>.

### **What information is required on the declaration?**

- Name of the declarant; name at birth; Mother's first and last name; place and date of birth; address,
- It is required to declare whether you are a US tax resident under FATCA,
- It is required to declare about CRS/DAC2 relevant tax residence, and - in the case of non-residency if the Affected state issues this - about the non-resident tax number. If you do not have a tax identification number, the reason must be indicated. The list of Affected states by the DAC2/CRS can be found in the current „CRS/DAC2 Announcement for natural persons”, which is available on the website <https://www.otpbank.hu/portal/en/Retail>.

An account holder client can have several tax residences, so more (maximum five) tax residences can be entered on the declaration. If the natural person is also registered with the Bank as a private entrepreneur and/or agricultural primary producer, his/her tax residence is based on the declaration made as a natural person. The declaration made at OTP Bank also applies to the Merkantil Mobile deposit account held by the client on behalf of Merkantil Bank. An incomplete declaration is not a valid tax declaration.

### **Who will OTP Bank report on?**

According to the related laws, OTP Bank is obliged to report the data indicating US tax residence/resident and data indicating CRS/DAC2 Affected state / New entrant Affected state tax residence/resident Natural person to the National Tax and Customs Administration, which will forward the data to the competent foreign tax authority.

A natural person is affected in the report if the country of tax residence is the USA or one of the states listed in the CRS/DAC2 Announcement for natural persons.

The aim of the data management is the exchange of information related to Financial Accounts, which is carried out by OTP Bank as the data manager on the basis of the above-mentioned legislation.

Further information on data management and your rights in relation to the management of your personal data can be found in the Data Management Information published on the website of OTP Bank Plc (<https://www.otpbank.hu/portal/en/Retail>) and in the General Terms of Business of OTP Bank.