

On 27 June, the Swiss State Secretariat for International Finance (SIF) announced that representatives of the Swiss and US governments had signed the new Swiss Model 1 FATCA IGA and simultaneously published the text of the new IGA on the SIF website ([here](#)). Accordingly, as of 1 January 2027 (as scheduled), Switzerland will convert from a non-reciprocal FATCA Model 2 IGA to a reciprocal FATCA Model 1 IGA. While the conversion will amend the FATCA rules in force in Switzerland, the changes are not particularly dramatic for Swiss entities' daily compliance with FATCA except insofar as the new IGA eliminates certain enforcement mechanisms in exchange for enacting the IGA into domestic Swiss law. The more significant impacts derive from (a) the reciprocity provisions which will compel the US to exchange the financial information of certain Swiss Persons and (b) the transition rules set out in the accompanying Memorandum of Understanding (which will be covered in a subsequent blog, *The Swiss Conversion to a Model 1 IGA, Part II: The MoU*).

**For Swiss Financial Institutions (FIs)**, the headline consequences from this conversion are relief from reporting directly to the IRS and from the enforcement provisions applicable to Model 2 IGA FIs. Once Model 1 IGA FIs, Swiss FIs will start reporting to the Swiss tax authorities, rather than filing reports directly with the IRS on the IDES Portal. Presumably, the Swiss Federal Tax Authority (SFTA) will rely on the current Swiss tax portal – the same one through which Swiss FIs submit CRS reports – to handle FATCA reporting. Despite the transactional costs from switching reporting venues, the SFTA Portal will tend to be more cost-efficient for Swiss FIs thanks to the superior user-friendliness and responsiveness of its administrators.

With FATCA rules to be enacted into domestic law, Swiss FIs, as Model 1 IGA FIs, will be relieved of the enforcement duties they are presently obliged to satisfy as Model 2 IGA FIs. These expiring compliance duties include the signing and renewal of the FFI Agreement, a contract with the IRS automatically entered into by a Model 2 IGA FI upon registration on the IRS FATCA Portal. This contract set out the terms and conditions applicable to Model 2 IGA FIs and non-IGA FIs with respect to FATCA. The FFI Agreement imposes enforcement duties on Model 2 FIs; above all, the Responsible Officer (RO) Certifications. Every Swiss FI must nominate a qualified internal party to serve

as FATCA RO, who must submit compliance certifications on a periodic and ongoing basis. The same enforcement mechanisms do not apply to Model 1 FIs. Of course, the elimination of these IRS-administered enforcement measures does not signal the end of FATCA enforcement measures for Swiss FIs. In lieu of the IRS measures, Swiss FIs should anticipate some form of a FATCA audit of their policies and procedures, in line with the SFTA's CRS audits.

Process-wise, the nightmare scenarios of Swiss banks and other FIs were not realized. There is no need to re-document Account Holders pursuant to the Annex I in the new IGA. In most circumstances, current classifications may remain intact, so long as the mandatory monitoring for changes in circumstances is in effect. The transition rules, however, do impose some novel diligence duties on Swiss FIs (these transition rules are covered in the second Swiss IGA conversion blog, *The Swiss Conversion to a Model 1 IGA, Part II: The MoU*).

Substance-wise, the new IGA delivers few changes to the current set of compliance rules applied to Swiss FIs and most of those are consistent with the Model 1 IGAs of other jurisdiction and so of scant surprise. The few items of some interest include—

- **A change to the jurisdictional nexus for FIs to qualify as Swiss FIs:** Under the Swiss Model 2 IGA, FIs “organised under” the laws of Switzerland are Swiss FIs. Under the Swiss Model 1 IGA, FIs “resident in” Switzerland will be Swiss FIs.
- The jurisdiction rules for non-resident trusts are not addressed directly in the IGA, but similar to CRS I expect the application of “resident in” Switzerland to encompass trusts administered by Swiss trustees. This jurisdictional hook will be mandatory and thus the option to treat trusts administered by Swiss trustees as governed by the Treasury Regulations will lapse. Any service providers who relied on that option will need to reconfigure their compliance programs to account for the gaps between the Treasury Regulations and the IGAs.
- **The inclusion of definitions for Financial Accounts:** Under the Swiss Model 2 IGA, the definition of Financial Accounts referenced the one in the FATCA

Treasury Regulations. Under the Swiss Model 1 IGA, the definition of Financial Accounts is set out, like in other Model 1 IGAs and under Swiss CRS.

- The definition of equity interests does not base the qualification of discretionary beneficiaries as Account Holders on the years in which the trust made a discretionary distribution to the beneficiary. However, I expect this limitation to be added via the subsequent guidance as in other Model 1 IGA jurisdictions.
- **The curtailment of permissible non-compliance:** Under the Swiss Model 2 IGA, Swiss FIs could opt out as nonparticipating FFIs (with corresponding withholding consequences). Under the Swiss Model 1 IGA, however, Swiss FIs are subject to local laws and must comply. Only Swiss FIs actively determined to be in violation of these obligations are re-classified as nonparticipating FFIs per Article 5. Furthermore, Account Holders presently categorized as US Persons – whether consenting or not – will be reported under the new IGA, irrespective of their recalcitrant wishes, unless the US Person status is cured.
- **The expansion of the local and small FI statuses in the Annex II:** Under the Swiss Model 2 IGA, only Swiss FIs with a heavily Swiss or EU client base could qualify as deemed-compliant FI. Under the Swiss Model 1 IGA, however, additional categories for local and small FIs were added.
- **The renovation of the Investment Advisor status:** Under the Swiss Model 2 IGA, Swiss Investment Advisors could only qualify as registered deemed-compliant FIs. Under the Swiss Model 1 IGA, however, Swiss Investment Advisors qualify as certified deemed-compliant FIs. The texts of the definitions differ as well, even though seemingly they aim to define the same activities and scenarios.
- **The addition of the sponsoring statuses to the Annex II:** Under the Swiss Model 2 IGA, Swiss FIs that wished to adopt a sponsored status for FATCA (as either a Sponsored Investment Entity or a Sponsored, Closely Held Investment Vehicle) had to access the statuses via the FATCA Treasury Regulations. Further, Swiss FI trustees seeking to align the FATCA status of their trusts with their CRS status of Trustee-documented Trusts were out of luck under the

Swiss Model 2 IGA. Per Annex II of the Swiss Model 1 IGA, however, these statuses are now readily available.

In short, once the new IGA regime is up-and-running, the Swiss IGA 1 FATCA regime will closely resemble the Swiss IGA 2 FATCA regime on a day-to-day basis. However, the transition rules will tend to generate a bit more stress on Swiss FIs (please refer to the forthcoming blog, *The Swiss Conversion to a Model 1 IGA, Part II: The MoU*, for further elaboration).

**For Swiss investors**, the change to a reciprocal IGA will entail the disclosure of financial information on Swiss Persons with certain accounts in the US. These reciprocal reporting duties imposed on United States Financial Institutions (USFIs) are far less comprehensive than the reporting duties imposed on Swiss FIs. Nonetheless, these provisions (however, stingy) may result in the exchange of information on a Swiss Person receiving payments of US-source income via an account held at a USFI, as follows—

- **Depository accounts:** Any Swiss individual (only) Account, who holds an account with a USFI and earns deposit interest of USD 10 or more per annum is subject to reporting on the amount of interest earned.
- **Custodial or brokerage accounts:** Any Swiss individual or Swiss entity Account Holder, who holds an account and earns US-source dividends, interest payments (even if exempt from withholding, as portfolio interest) and other types of income treated as reportable under Chapter 3 is subject to reporting on the amounts received. Other types of income treated as reportable under Chapter 3 include royalties, rents, dividend equivalent payments, annuities and more per Treasury Regulation 1.1461-1(c)(2).
- **Other accounts (e.g. equity or partnership interests in Investment Entity-type USFIs):** Any Swiss individual or Swiss entity Account Holder, who receives US-source dividends, interest payments and other types of income treated as reportable under chapter 3 (see above) is subject to reporting on the amounts received

Two major differences between Swiss FI reporting to the US and USFI reporting to Switzerland are the following—

- The FATCA status of a Swiss entity Account Holder is irrelevant to the reporting; and
- The financial information disclosed will only concern the amounts of the payments and not the value/balance of the reportable accounts.

Despite these limitations, Swiss investors should review any Forms 1042-S they receive to determine what and from which US FIs, they may anticipate account reporting in 2028.