



QI periodic reviews for 2018-2020 certification period

# QI periodic review and certification requirements

For most QIs the next periodic reviews and certifications are just around the corner and respective planning activities should be started now



## Periodic review and certification requirements

- With respect to each certification period, a Qualified Intermediary (QI) must designate an **independent reviewer** to perform a **periodic review** with respect to one year of the certification period.
  - The reviewer must assess the QI's compliance with respect to the documentation, withholding, reporting, and other obligations under the QI Agreement as well as the applicable FATCA requirements. The results of the periodic review form the basis for the QI's periodic certification.
  - The focus of the periodic review consists of reviewing a sample of the QI's account holders who received US source income during the review year.
  - A QI whose certification period ends on 31 December 2020 may select either **2018, 2019 or 2020 as the review year**. Selecting 2019 as the review and having the review conducted in H2 2020 may be the preferred option for many QIs as it leaves them more time to remediate potential findings in advance of the periodic certification.
- The **Responsible Officer (RO)** of a QI must make a **periodic certification** to the IRS after the end of every certification period.
  - The RO must make either a *Certification of Effective Internal Controls* or, in case there are/were material failures, a *Qualified Certification*. In addition, the RO must provide together with the certification certain factual information to the IRS based, in part, on the results of a periodic review.
  - For QIs whose certification period ends on 31 December 2020, the periodic certification is due on **1 July 2021** (if the periodic review is performed for 2018 or 2019) or **31 December 2021** (if 2020 is selected as the review year).



## Waiver

- If the reportable amounts received by a QI during each year of the certification period do not exceed **USD 5 million** (and QI fulfils other applicable criteria), the QI may apply for a waiver from the periodic review.
- Such QIs must nevertheless make a **periodic certification** to the IRS.



## Sec. 871(m) activities

- Exemption for **Qualified Derivatives Dealer (QDD)** activities during the periodic review for the certification period ending on 31 December 2020.
- Nevertheless, **Sec. 871(m) instruments** held in custody for a QI's account holders are in scope of the periodic review.



## Consolidated compliance groups

- There are **special review and certification requirements** for QIs under common ownership who are part of a consolidated compliance program.
- In order to form a consolidated compliance group and benefit from these special procedures, a separate application with the IRS is required.

# QI periodic review approach and offering

We are committed to perform periodic reviews in a consistent, efficient and pragmatic manner for an attractive price



## Typical steps of a QI periodic review

1. Facilitation of **initial workshop** to present requirements, determine the scope and agree on form of collaboration
2. Development of **review plan** taking into consideration QI's compliance program and account types
3. Validation of total account population, calculation of sample size and **selection of sample population** based on the safe harbor method
4. Provision of **information request list** allowing QI to prepare relevant data/documentation
5. On-site **documentation, withholding and reporting review** for sampled accounts (and interim status updates to RO)
6. Preparation of draft review report and **meeting with RO** to discuss findings and necessary remediation activities
7. Submission of **final review report** (taking into consideration remediation activities) to RO



## Our strengths

- **Consistent and highly efficient** on-site review ensured through the use of Deloitte's QI work program
- **Pragmatic approach** on the basis of our longstanding in-house and advisory expertise with respect to QI operational processes
- **Skilled and experienced team** that already performed numerous QI reviews and health checks
- **Access to IRS QI team** to support complex remediation activities



## Transparent and attractive pricing

- Deloitte offers an **attractive pricing model** consisting of two components:
  - **Fixed part** depending on complexity of QI's business
  - **Per-account fee** depending on sample size and type of accounts
- The transparent pricing model ensures that costs remain within agreed boundaries

# Other offerings in relation to US withholding tax compliance

We also offer a broad range of other services and products supporting QIs to achieve and enhance their compliance with the QI Agreement and related requirements



## Selection of Deloitte's QI/FATCA/Sec. 871(m) offerings

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- **QI/FATCA readiness review:** Conducting a review supporting the RO to obtain additional comfort regarding the bank's QI/FATCA compliance in advance of the QI periodic review and the QI/FATCA periodic certifications.
- **Sec. 871(m) "good faith" review:** Providing clarity to the RO on 871(m)'s impact on the bank (in particular when acting as an issuer/principal for Sec. 871(m) instruments), providing comfort to the RO that the bank complies with Sec. 871(m) and/or highlighting deficiencies as well as recommendations, and preparation of a document to support the fact that the bank made a "good faith effort" in its implementation of Sec. 871(m).
- **QI/FATCA RO certification checklist:** A checklist of actions for the RO of a QI/FFI to prepare him/herself for the QI/FATCA periodic certifications.
- **QI/FATCA framework compliance program:** A structured and accessible QI/FATCA compliance program, including components of a typical QI/FATCA compliance program. It includes an overview of duties, risks, liabilities, procedural requirements, organisational set up considerations, and examples of controls, which may be implemented by a Reporting Swiss FI or Participating FFI, acting as QI.
- **QI/FATCA compliance program support manual:** A manual to upskill the users on QI/FATCA elements and thus reducing the need for ongoing external support.
- **QI/FATCA/Sec. 871(m) procedure template:** A procedure documenting the responsibilities within the different departments involved in compliance with the QI/FATCA/Sec. 871(m) regime, and defining the bank's relevant obligations based on the QI/FFI Agreement and the US Treasury Regulations.
- **QI/FATCA/Sec. 871(m) trainings/workshops:** Online or in-class trainings or dedicated workshops to upskill ROs and other involved staff with regards to QI/FATCA/Sec. 871(m), including supporting internal functions in undertaking review activities.
- **QI reasonableness checklist:** A checklist of the reasonableness of the QI status claimed by an account holder to be used at account opening, for changes in circumstances, or for existing accounts that were not documented for QI but will now start to invest in US securities and therefore need to be documented for QI purposes.
- **QDD implementation support:** Supporting banks acting as an issuer/principal for Sec. 871(m) instruments to become a QDD, including establishing adequate policies, processes and controls.
- **QI/FATCA/Sec. 871(m) ad-hoc support:** Advisory support with respect to any ad-hoc query in relation to QI/FATCA/Sec. 871(m).

# Contacts

Our team of skilled, experienced and motivated QI experts looks forward to discussing our offering with you in detail



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