

FATCA/CRS in Luxembourg: rising scrutiny and key actions for financial institutions

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International tax transparency has shifted decisively from rule-making to enforcement, with tax authorities increasingly scrutinizing how regimes are implemented in practice. The Luxembourg Tax Authorities (LTA) have notably intensified FATCA and CRS reviews across the financial sector, particularly in the banking and fund industries. For affected institutions, the key question is no longer whether policies exist, but whether they can demonstrate effective implementation, robust governance, and adequate oversight of any outsourcing arrangements.



This initial phase can be particularly demanding, as it requires institutions to centralize up-to-date documentation and rapidly extract and reconcile FATCA/CRS data.

Interviews and on-site review

During FATCA/CRS audits, the LTA often focus on the robustness of the Reporting FI's operating model and its oversight of outsourced functions, including incident management. They may also test key due diligence procedures—such as system access controls, the handling of undocumented account holders, the reasonableness test, "Day 2" procedures and the monitoring of changes in circumstances—and, from a reporting perspective, review how financial positions are assessed, and how corrective reporting is performed when deficiencies are identified.

Outsourcing in the spotlight

Responsibility remains with the reporting financial institution

A key takeaway from these in-depth controls is that outsourcing arrangements remain a central focus for the LTA.

In Luxembourg, many financial institutions rely on service providers to perform FATCA/CRS-related tasks, including due diligence and reporting obligations. While this operating model is widely used and accepted, it does not diminish the responsibility of the reporting financial institution. Effective oversight is therefore particularly important for management companies and investment funds that outsource investor onboarding activities to transfer agents or fund administrators.

Financial institutions must be able to demonstrate how they monitor and review the work performed by their service providers, as well as the controls implemented to ensure FATCA/CRS obligations are properly fulfilled. They should also be able to clearly explain the rationale behind classifications and reporting decisions, while maintaining evidence of their oversight activities, such as periodic reviews, sample testing, documented queries, and follow-up actions.

Register of Actions: FATCA/CRS Control and Monitoring

Luxembourg reporting financial institutions are required to maintain a Register of Actions documenting how FATCA and CRS obligations have been implemented⁽⁷⁾. Where service providers are involved, the Register of Actions should also include evidence of the reviews performed on the services provided, together with the conclusions reached and any corrective actions taken, when applicable.

The Register of Actions is a record of activities carried out, together with supporting evidence, to demonstrate adherence to FATCA and CRS requirements in accordance with the internal procedures implemented by the reporting financial institution. In this context, the Register should evidence that processes are aligned with the applicable regulatory framework and have been properly executed and documented.

While the FATCA and CRS Laws do not prescribe a specific format for the Register of Actions, guidance

issued by the LTA indicates that it should include, among other elements, updates to written procedures and policies, deficiencies and incidents identified during due diligence and reporting processes, related remediation plans, training sessions organized, and a description of the oversight exercised over activities delegated to service providers.

For Luxembourg market players, a well-maintained Register of Actions can serve not only as evidence of compliance for the LTA, but also as an effective management tool to monitor implementation efforts, identify recurring issues, and prioritize remediation actions.

Looking ahead: Strengthening governance and readiness

The intensification of FATCA and CRS controls by the LTA reflects both growing international expectations and a broader shift towards more outcome-focused supervision. For Luxembourg's financial sector, this carries several practical implications:

- Governance and documentation: FATCA/CRS policies and procedures should be reviewed regularly, with any updates appropriately documented in the Register of Actions.

- Oversight of outsourcing arrangements: Where activities are delegated to service providers, oversight responsibilities should be clearly defined, effectively implemented, and properly documented. This may include periodic reviews, sample testing, and the review of reports produced by service providers, together with evidence of follow-up actions taken in response to identified issues.

- Data quality and reconciliation: Financial institutions should be able to (i) produce reconciled lists of financial accounts, including reportable, non-reportable and excluded accounts; (ii) ensure that all relevant data captured in their systems are accurately reflected in FATCA/CRS reports; and (iii) reconcile reported financial positions.

- Register of Actions: This Register should be maintained as a central compliance document recording both day-to-day implementation activities and remediation measures.

- People and training: Given the technical complexity of FATCA and CRS obligations, regular training for staff involved in onboarding, documentation, reporting, and control functions remains essential.

As controls become more frequent and increasingly detailed, Luxembourg financial institutions that can demonstrate strong governance, clear documentation, and effective oversight—particularly in relation to outsourcing arrangements—will be better positioned to respond within required timeframes and mitigate the risk of penalties and reputational damage.

In addition, with new information set to become reportable from 2027 under CRS 2.0, financial institutions should already be assessing whether their processes, controls, and systems are sufficiently robust to meet these enhanced reporting obligations.

1) OECD, Peer Review of the Automatic Exchange of Financial Account Information: 2023 Update (AEOI Peer Review Report, 2023)

2) Decision n°79-2025 of the Belgian Data Protection Authority

3) Response by the Minister of Justice and the Minister of Finance to Parliamentary Question No. 3463 of 14 January 2026.

4) Administration des contributions directes, Rapport annuel 2024

5) Administration des contributions directes, Rapport annuel 2025

6) Administration des contributions directes, FAQ CRS – NCD (Norme Commune de Déclaration)

7) Law of 18 June 2020 amending the existing FATCA and CRS legislation

International context: Peer reviews driving enforcement

The OECD expects jurisdictions to regularly verify that reporting financial institutions comply with CRS requirements, maintain effective mechanisms to address non-compliance, and impose penalties⁽¹⁾ where appropriate. In this context, the Global Forum on Transparency and Exchange of Information for Tax Purposes reviews jurisdictions committed to the Automatic Exchange of Information (AEOI) Standard. Its peer reviews assess both the legal frameworks underpinning AEOI and how the Standard is implemented in practice, including domestic compliance measures applicable to financial institutions and the effectiveness of information exchanges.

For Luxembourg, this means that the LTA must demonstrate that they actively ensure, in practice, that reporting financial institutions correctly apply due diligence procedures to identify financial accounts and determine which accounts are reportable. The LTA must also evidence effective enforcement mechanisms and the use of all appropriate measures under Luxembourg law to address errors and non-compliance.

Beyond the OECD peer review process, FATCA is also facing increased legal and regulatory scrutiny within the EU.

On 24 April 2025, the Belgian Data Protection Authority found that FATCA data transfers breached several GDPR requirements and imposed a one-year⁽²⁾ compliance deadline. In parallel, the *Cour des marchés de Bruxelles* referred questions to the CJEU regarding FATCA's compatibility with the GDPR, the EU Charter of Fundamental Rights and the EU rules governing international data transfers.

These developments have also prompted debate in Luxembourg, where parliamentary questions were submitted to the Ministers of Justice and Finance on the legal compatibility of FATCA transfers with the GDPR. In response, the government emphasized that the Luxembourg-US FATCA agreement, signed in 2014 and implemented by the law of 24 July 2015, constitutes an international agreement involving transfer of personal data to a third country concluded before 24 May 2016, and therefore falls within the specific regime provided under Article 96 of GDPR. The

LTA controls: More frequent, more detailed

In recent years, the LTA have noticeably intensified their controls in the investment management and banking sectors. In 2024, 469⁽⁴⁾ Luxembourg entities were subject to FATCA and CRS compliance reviews. In 2025, this number increased to 836 entities⁽⁵⁾ through thematic and/or in-depth audits assessing compliance with reporting and due diligence obligations, an increase of nearly 80% year-on-year.

The LTA currently conduct three main types of controls, each differing in scope and depth⁽⁶⁾:

- Classification checks aim to identify Luxembourg financial institutions and verify that their FATCA/CRS status is consistent with their actual activities. In practice, the LTA issue information requests to assess whether an entity's classification (typically as a Non-Reporting financial institution or non-financial (foreign) entity) is appropriate.

- Thematic controls focus on specific issues, often across one or more tax years, such as the application of due diligence or reporting procedures. **In-depth controls** assess overall compliance with due diligence, reporting and record-keeping obligations. These reviews may target a single institution or a group of entities managed by the same Luxembourg institutions and treated as financial institutions. In such cases, the LTA look beyond formal policies and examine how FATCA and CRS obligations are implemented in practice across governance, systems, processes and outsourced arrangements.

In-depth controls: Phases and documentation requested

The Luxembourg reporting financial institution under review receives a notification letter informing it that it is subject to an in-depth control and setting a deadline (typically around six weeks) to provide documents and information enabling the LTA to assess its policies, controls and practical implementation. This generally includes:

- The latest version of written procedures and manuals;
- The Register of Actions taken and supporting evidence;
- Training records;
- The list of financial accounts maintained during the review period (typically covering three tax years), including reportable, non-reportable and excluded accounts.

Pictet renforce son pôle assurance-vie au Luxembourg

Pictet Asset Services (PAS), ligne de métier du groupe Pictet maîtrisant chaque dimension de l'asset servicing, poursuit le développement des services proposés aux assureurs au Luxembourg en renforçant son offre commerciale et son équipe spécialisée dans les assurances-vie.

Cette offre ciblée inclut une large palette de services avec des ouvertures de compte facilitées (sous 48h), une connectivité B-to-B performante, une offre de crédits lombards adaptée ainsi qu'une solution de dépôt d'actifs « private assets » répondant aux exigences de confidentialité et de



sécurité, pour tous les types de supports d'assurance (fonds externes, fonds internes dédiés, fonds internes collectifs, fonds d'assurance spécialisés). Cette

évolution s'inscrit dans la volonté de PAS de devenir le partenaire de référence des assureurs luxembourgeois, en s'appuyant sur une expertise recon-

nue et une relation historique avec le secteur.

"Nous reconnaissons l'assureur comme client à part entière et cherchons à nouer des partenariats étroits, fondés sur un service institutionnel spécifique. Cette approche s'inscrit dans l'ADN de Pictet. L'excellence du service à la clientèle, héritée de notre longue tradition de banque privée, joue un rôle central, même dans un environnement B2B sophistiqué et intégré", affirme Claude-Joseph Pech, Equity Partner du groupe Pictet et Deputy CEO de PAS.

Depuis de nombreuses années, Pictet accompagne les assureurs à travers ses activités de wealth management et d'asset servicing en proposant des solutions sur

mesure et innovantes, que ce soit dans la structuration patrimoniale via l'assurance pour une clientèle privée haut de gamme, ou le développement de relations de confiance avec les tiers gérants, qui interviennent en tant que mandataires de gestion dans les contrats d'assurance.

Le Luxembourg s'impose comme un acteur clé de l'assurance-vie internationale, grâce à la robustesse de son « triangle de sécurité », garantissant la protection des avoirs des souscripteurs.

Les chiffres records des encours et des primes annuelles témoignent ainsi du succès de la place, même dans un contexte géopolitique incertain: en 2025, les primes ont atteint 31,1 milliards d'euros (+16% sur un an) et les actifs sous

gestion ont progressé à 262,5 milliards d'euros (+8,5%).

En renforçant son engagement auprès des assureurs luxembourgeois, PAS entend offrir des solutions sur mesure, innovantes et sécurisées, tout en restant fidèle à sa mission d'être un partenaire de confiance, au service de l'excellence et de la pérennité patrimoniale.

Enfin, le travail de l'ACA Luxembourg, l'Association des Compagnies d'Assurances et de Réassurances, ainsi que les récentes évolutions du FIC, le fonds interne collectif, validées par le CAA, le Commissariat aux Assurances, contribuent eux aussi à assurer une meilleure compétitivité et le développement de ce produit en Europe.