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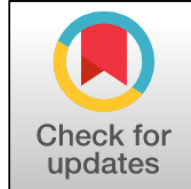
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# The Extent to Which Financial Institutions Comply With The US FATCA Law

Khairi Ibrahim Murad, [khairi@gmail.com](mailto:khairi@gmail.com), (1)

*University of Duhok. College of Law, Iceland*

<sup>(1)</sup> Corresponding author

## Abstract

This scientific article explores the challenges and risks faced by Iraqi banks in complying with the Foreign Account Tax Compliance Act (FATCA). The study aims to investigate the extent of compliance in Iraqi banks and examine the general framework of FATCA through document analysis and interviews with bank officials. The results reveal that while Iraqi banks encounter various challenges in adhering to FATCA, they are actively taking significant steps to implement the necessary changes. The study highlights the need for continued monitoring of compliance efforts and emphasizes the importance of adapting to the global banking system. The implications of this research underscore the crucial role of FATCA in preventing tax evasion and ensuring tax compliance among US taxpayers utilizing non-US financial institutions and investment vehicles abroad. This research contributes valuable insights for professionals in the field, policymakers, and researchers interested in understanding the impact of FATCA on the banking sector and its implications for global financial regulations.

### Highlights :

- Challenges and risks faced by Iraqi banks in complying with FATCA.
- Active steps taken by Iraqi banks to implement necessary changes for FATCA compliance.
- Implications for preventing tax evasion and ensuring tax compliance in the global financial landscape.

**Keywords :** FATCA Compliance, Iraqi Banks, Tax Evasion, Global Banking System, Financial Regulations

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## Introduction

Tax evasion is a phenomenon that most countries suffer from, and it has long plagued many societies alike. It was advanced, developing, or retarded. It is a criminal phenomenon cannot be removed from a society, no matter how serious the efforts are to eradicate it, there is no deterrent. Religious and moral is always useful in curbing the unbridled human spirit, and legal arrangements do not always succeed in deterring those who offend society, for the human soul is inclined towards force and then monopoly. Assault and it was said in the matter of tax evasion that there is nothing more difficult for a person than two things: death and taxes.

The phenomenon of tax evasion is a global phenomenon, not limited to a specific country, but its extent varies between countries state and another, while you find the Anglo-Saxon taxpayer paying the tax voluntarily and selectively, you find Also, the Latin taxpayer tries to evade it by all means.

Therefore, we find Tax evasion differs from one society to another, depending on the nature of the existing system and the level of taxation. Prevailing morality and cultural and social awareness of a far this. Today, the phenomenon of tax evasion is no longer just an internal problem in the national state, but has become a phenomenon Globalized, in fact, the forms and patterns of tax evasion have become so complex that it is difficult to recognize. Occasionally, I have consulted in most of the developing and developed countries alike.

What prompted many countries of the world to enact legislation to combat this phenomenon, and some of them included it in a traction. Money laundering, and some of them legislated a law of its own and on a global level, Congress has passed American dated 18/3/2010 Abbreviated Foreign Account Tax Compliance Act b "FATCA", which requires all "non-US" foreign banks in addition to financial institutions Others, such as investment funds and guarantee companies, must disclose to the Income Tax Authority in the states United States, for any customers who have a relationship with the United States whether they are citizens or residents; Balances increase Their accounts payable for fifty thousand dollars, or shareholders by more than 10% in Contribute Company Foreign, or those associated with associations, or credit operations, according to a reporting form determined by office taxes American.

It also includes the provisions of the law Persons connected to the United States of America, such as persons Americans, even if they are residing abroad, and holders of American citizenship in addition to their nationality Those born in the United States, unless they have renounced their citizenship, as well as those residing in the United States United State.

Here the questions arise as to whether every person should hold US citizenship; give it up to evade the commitment Towards FATCA law and the US IRS, and about Whether to waive Nationality in and of itself exempts from the obligation of the law; Or does the waiver have other consequences?

Which also puts us in front of a problem in implementation. Will countries accept the application of the intruder law to a group of those on their lands?

Also, what is the legal nature of this law? Is it a bilateral agreement between the United States and the country that is obligated to apply and implement it, or is it complementary to the internal law of this country, and in which category can the "FATCA" law be classified? It should also be noted that the tax compliance law will be implemented in phases

It is noted from the American Tax Authority's website on the Internet page (IRS) that some steps have been taken for implementation, the most important of which is setting a timetable.

Knowing that the FATCA law imposes on financial institutions around the world the obligation to implement it, by taking the steps and procedures leading to its implementation. In particular, informing the US Treasury Department directly of the accounts of its clients who hold US citizenship or residency, or have a direct relationship with the United States. In addition to taking the necessary procedures or legislative amendments in the event that the "FATCA" law conflicts with the internal laws of these countries, the most important of which is the banking secrecy law.

This puts all countries, including financial institutions, in front of many challenges and obstacles, whether they are procedural or legislative, or even in preparing human cadres for the proper application of this law, and the consequent exorbitant costs at the level of human resources and the development of information systems in a manner commensurate with the requirements. The law, which creates a major legal problem at the international level in terms of states' acceptance of the obligation to apply the "FATCA" law, while others refused under the pretext that internal laws protect their clients from leaking information about their accounts and personal information, and that any breach of this information constitutes in itself a partial crime punishable. The law, which requires legislative amendments to commensurate with the provisions of the new law, otherwise we will stand in the face of the United States of America and be subject to sanctions.

The "FATCA" law puts countries before two options: either its implementation, or penalties in the event of non-



implementation, and it is clear that most tend to adhere to the application of the law, including the Iraqi state.

However, the most important question in this area arises about the effects that may result from the commitment of financial institutions to apply the law.

Will the impact be limited to banking secrecy, or will it go much further?

## **The Study Problem**

by studying of the new US law, does the tax compliance law constitute a threat or complement to the sovereignty of the United States? financial institutionsIs the American citizen with two citizenships, between two options: either declaring the money and paying the due tax, or giving up the US citizenship?

The most important question that also arises is whether the Iraqi who holds American citizenship will start paying the tax for his possession of this nationality? In view of this reality, he will be obligated to pay two taxes, one forged to his home country and the second real original to his new home?

And in the case of compliance by the financial institutions with the FATCA law. What is the fate of banking secrecy here, which is at the heart of the financial obligations that fall upon them?

**in other words**, the problem of the research is that the topic chosen is not valid al beyraNew, and there is no mraenough juice in This field can be returned to, especially in our Arab world.

The loophole exists in Iraq, so it is true that tax evasion has been known since ancient times, but who would ever have imagined that a law would be issued in one country and enforced in other countries?

By this research or study, we will have received the shock of this new American idea, to open the door for researchers to set off towards discovering the developments of this law and knowing its mysteries. Success is only from God.

## **the importance of studying:**

The subject of the Foreign Account Tax Compliance Law "FATCA" is still recent, and it has not been properly researched and scrutinized at the level of law in Iraq, as most of its aspects are still vague and unknown, and it raises a lot of jurisprudence, legal and media controversy, given the novelty and seriousness of the problems. Legal in general, and those that fall under the criminal law and the law of banking secrecy and money laundering in particular.

This study is of great importance due to its benefit and benefit to the groups concerned with the law, as well as the impact of this law on society, as it will be applied to a group of Iraqis and a specific group of citizens within each Arab or foreign country. Also, to provide a vision and diagnosis of the law and highlight the challenges experienced by the financial sector and the economic world. What this study can contribute to is the excitement of researchers and students of law in research and in-depth.

## **Method**

The research on the subject of the Foreign Account Tax Compliance Law "FATCA" is not just a descriptive study, but rather an analytical, critical study as well, according to the method of extrapolation and the attempt to conclude through the rules of logical reasoning to the extent that this approach is appointed.

### **Study plan:**

will be done investigation Goal study from during detective next:

**The topic the first:** the frame general for a law Compliance tax (FATCA)

**The topic the second:** challenges and risks that Financial institutions are facing compliance tax for a law (FATCA)

**The third topic:** the mechanisms of implementing the FATCA law by the Central Bank of Iraq

### **The First Topic**

#### **the concept of FATCA law**

To reach the research goal in this study, we will divide this topic into two requirements. As for the first requirement, we will single it out to what is the FATCA law, and as for the second requirement, we will devote it to the agreement concluded between the US Treasury and the Central Bank of Iraq.

## Results and Discussion

### The first requirement

#### definition of FATCA law

in thicket what witnessed it gesticulate witness it the world from crises Finance and changes political I left its fingerprints on The banking sector financial, flourished operations whitening funds and financing terrorism and taken forms New and varied

and branched out beneficiary from techniques cutting edge in means paying off and services banking modern Considering that my ovary funds they in quest permanent Search on the countries that no are available In which systems protection effective You will be vulnerable to breach from Without excitement a lot from doubts and questions, or That that believe protection and banking secrecy advanced for depositors she has, what Pay some to Deposit their money In which to evade from taxes and disposal with it Away on censorship their powers local Generally and

tax especially[1].and the proverb that emulated with it always in this the field he "Switzerland " pregnant heritage the secret banker in century.

the past and his garrison in countries the world whole, motivated sectarian) the war between Catholics and Protestants (and motives humanity)escape from persecutions racism or motives political)neutrality and not Engage in camps warring[2].about this Development quantitative and qualitative rapid And whopper in methods used to whiten funds and terrorist financing And the rest Processes Finance not legitimate as evasion tax (Tax Evasion) to hand fleeing.

Heads fundsSmuggling of Capitals Enbert the authorities Legislative in the world, And with cooperation with sinks and institutions finance, to do process amendment drastic for techniques monitoring followed until you can from tracing antiquities This is amazing Processes and work on combat it, And it was Most notable the states United American that issued what Known B "Law Compliance tax The American on the accounts foreign[3] (FATCA Foreign Account Tax Compliance Act) that that StatisticsAppreciatethat dodging tax that resort mechanism some Persons on smuggling route their money to Outside lands the states United it costs the government American100one billion dollar annually, with Toward (17) million citizen American Outside the states United.

that imposing a law "Fatka"on institutions Finance in all around the world that Ministry informs Cabinet American directly, Exposed accounts their customers from campaign Nationality american, or Residence (green card), or until Whose doubt bank in that they from residents in the states United American.And therefore provide an interest taxes American annually with info on Native Americans Whose They have funds and investments they have.applies that also on companies that constribte In which People carry Nationality american, on to be done permit in the beginning on the accounts that inform its average million dollar limit minimum during last year[4].

duty the law on This is amazing institutions Commitment Submit information ample and detailed on Money, investments and property Native Americans residents in the outside, from Okay Collection Z a Lord due on them and prevent them from dodging from Pay it off.and under this the law He should on motivator taxes Native Americans of whom exceed their origins Finance external limits certain, Disclosure on That assets for the sake of taxes American(IRS).

and this is command situation That institutions algebraically Before Two things[5]:

The first matter: submission to this law and thus bypassing a series of local procedures related to protecting the interests of its customers, especially in terms of "banking secrecy".

The second matter: Exposure to deduction of 30% of the value of its money invested in American banks, in addition to stopping American banks cooperating with it and facilitating its financial operations with foreign institutions.

This law was passed by the United States in (2010) and he entered space access in the first from July from general2014, and its purpose he Combat dodging tax from before Citizens Native Americans Whose they have accounts and origins Finance Outside the states United american, And that from during Bind institutions Finance foreign ( not American) Submit reports about them to an interest taxes American.It includes any account Back to person American whether Was person a naturally or morally, or Back for an institution/a company foreign owned from before person American in the rate of Increase on10%from Stock or Quotas from head the money whether in a form direct or not direct[6].

It features this the definition that Law Compliance tax Fatka Calm down to Identify on Client assigned pay taxes for the sake of Cabinet american, to determine Bezel his commitment pay taxes, hate look on place his residence, and he obliges All person's holders Nationality American and the workers Outside the states United pay tax income, and oblige also all banks and institutions Finance in the world which she has accounts I have banks Correspondence in

the states United American.

aims Law Compliance tax FATCA to provide more from Transparency and make dodging from taxes more difficulty with regards for Americans and residents permanent in the states United, under this the law become institutions Finance foreign binding by disclosure for the sake of taxes American on all the information related by accounts owned for citizens Native Americans or resident's permanent Outside the states United[7].

## **The second requirement**

### **categories committed by law Compliance tax (fatca)**

The persons covered by FATCA are[8]:

- 1- A person who holds an American passport.
- 2- A person who holds US citizenship (single or dual)
- 3- The person who holds a permanent residence card (Green card)
- 4- A person residing in the United States of America.
- 5- Every person whose place of birth was in the United States of America.
- 6- Every person who does not hold US citizenship (or is not a US citizen), but who meets the conditions for examining continuous (permanent) residence in the United States of America.
- 7- Every person who pays taxes in the United States of America for any other reason

## **The third requirement**

### **Goals Law "FATCA"**

that Law Compliance tax on the accounts foreign "Fatka" Aim to By the place the first to protect American interests. where I agree By the place the first because of increasing impotence Arbitrage the states United American, And with a goal Pay off the debt the local that receipt to 15 trillion dollar, And stop Draining US Treasury revenues whether across dodging tax or operations whitening funds[9].

but questions abound around Objectives real for issuance Law American Exceeds border the states United, so can say that Law Compliance Tax It is necessary the world on implement it and he goodness Example on that United State American Seeking to get on taxes from Native Americans wherever they found and wherever they were. and from most important questions that pose in this the field:

\*what she Goals Law Compliance tax on the accounts foreign?

\*Do confined his goals with ban dodging tax Just, Mother exceed it for goals political more complicated?

that Law Compliance tax on the accounts foreign "Fatka" that seem apply it on the date 1/7/2014

its Law legislative his year the states United, and it has It was completed situation this the law to face dodging tax who resort mechanism Americans, and to save degree big from Transparency in matters tax.

and he has It was completed year also motivated reporting on the information new and conditions block it that Complete applied in institutions Finance in all around the world, with what in which sinks Iraqi and others from institutions financial that It was completed determined under Law "Fatca".

So, Throw the law the new to impose procedures "Transparency" aggravating on the accounts foreign affairs for Americans taxpayers with taxes with a goal limit from dodging tax and smuggling funds, and he euphemism when he required "Reporting" any statement an interest US taxes from side Banks and institutions Finance around the world. so that the authorities American classified dodging tax within war goals on funds not legitimate. command that justify hereby cooperation that Seeking to circulate it on the society financial international. but this Collaboration enters fact in solid interest American Direct more from him in Field Combat whitening funds As he appreciates that an interest US taxes will reap more from one hundred one billion dollar annually, any what parallels About 3.4% of sum taxes that you earn the government Federal and extreme 3.2 trillion dollar application result the law aforementioned, may be I started Earn Billions from him until before penetrating just because its effect psychological, where hit number Countries that Occurred agreements on application Law "Fatca" (113) nation around the world until On 4/28/2016.

aims Law also to Combat operations whitening funds And to float Boxes Cabinet America in billions of dollars

annually[10].

And the goal basic for a law Compliance tax on the accounts foreign he to break sovereignty states and institutions finance, via Intervention direct, And in a way legal"oblique" in Processes Finance across the banks and institutions other To find out size deposits to my countrymen This is amazing Countries just because that they carry The American nationality, and follow up Transfers from any country and for what country via to break Laws internal for states And the most important one Secret laws sinks.so Lead application Law Fatka on Upper Iraq to make category from Client The drains are exposed Before the authorities American[11].

## **The fourth requirement**

### **The content and conditions of "FATCA"**

The provisions of the "FATCA" law stipulated that all "non-American" foreign banks, in addition to other financial institutions such as investment funds, guarantee companies, trust funds, and Islamic banking and financing institutions, must disclose to the Income Tax Authority in the United States any customers related to the United States whose balances exceed Their credit accounts for fifty thousand US dollars, shareholders of more than ten percent (10%) in the capital of a foreign company, or those associated with associations or credit operations, according to a reporting form specified by the American Tax Authority "known" FFI Agreement"[12].

This law has become an amendment and development of the Employment Law, which obliges individuals to disclose information related to their bank accounts in their tax return from the year (FBAR) 1970, but this last law did not receive much attention from outside the banking community and weak commitment on the part of persons, so it was necessary to A more comprehensive and stronger law dealing with financial institutions that Americans may resort to to smuggle their money.

## **The Topic the Second**

### **Risks and challenges facing financial institutions regarding FATCA law**

In this section of this study, we will address what these risks and challenges are in the first requirement, and as for the second requirement, we will indicate the procedures to be taken by banks and financial institutions to implement the Tax Compliance Law, and as for the third requirement, we will devote it to the methods of applying the Tax Compliance Law (FATCA).

## **The first requirement**

### **The concept of risks and challenges**

no doubt that preservation on Safety and stability the device banker Iraqi from Important things in particular light Ensuring the continuity of dealing with foreign correspondent banks and avoiding reputational risks to which the banking system may be exposed data and info clients in banks conflict with requirements FATCA.

It is these risks and challenges are[13]:

1- Related laws: The banking laws and banking instructions at the beginning of the issuance of the FATCA law did not have the ability to implement it, which forced the Central Bank later to issue the necessary regulations for its enforcement in Iraq, as well as to conclude an agreement with the United States government regarding its enforcement.

2- Banking secrecy: the inability of banks to balance between the requirements of the law and maintaining the confidentiality of customer accounts and data, which may expose them to the possibility of losing some of their customers of American nationality who may have a great weight in investments, noting that the data required to be submitted

To the Treasury Department or the US Tax Authority, it will be through an official government agency, whether it is the Ministry of Finance or the Central Bank, and this guarantees the confidentiality of information.

3- Time periods for application: The short period of time available for banks to reconcile their positions and disclose their information regarding their American clients, and the extent of their information systems' ability to provide information about those accounts in a way that is consistent with the law.

4- The financial operational costs of applying (FATCA) in light of financial globalization and compliance requirements:

By following up on existing accounts, monitoring and updating them permanently and whenever necessary, and amending the information system in banks, as well as efforts related to updating policies and procedures for the necessary training for employees, with the aim of clarifying the bank's policy regarding compliance with the law for

all employees and strictness that control be at a good level, and that there is no weakness in controls.

items the basic that on Foundation Finance The performance with it to apply Law Compliance tax Follow Favorite there Three pillars essential, Which[14]:

It is worth noting that among the most important of these accounts that the financial institution and the cooperating banks must identify for the Tax Compliance Law according to the correlation indicators specified by the US administration, are:

A/ Accounts belonging to Americans directly and indirectly. According to American instructions, the Authority is considered American when the American taxpayer has an interest in it, such as a direct or indirect contribution to the capital, or a voting right of at least 10%, or participates directly or indirectly in partnerships. with more than 10% of the profits or the capital, or has an interest in a trust fund with more than 10%.

B/ Accounts of institutions that concluded an agreement with the US administration.

C/ Institutions that are not concerned with American law.

d/ Exempted institutions and others.

2- Preparing reports<sup>13</sup>: - Iraqi banks are required to send a report to the US Income Tax Office (IRS) annually on obligated individual US accounts and accounts. These reports include the following:

- The name and address of every American who owns, directly or indirectly, an account with it.
- account number.
- Account balance or value with reference to the previous highest balance.
- Detailing the account's withdrawals and payments related to purchases, sales, salary payments, allocations, and money transfers.

Through the above, we can review the most important responsibilities of Iraqi banks and institutions towards compliance with the implementation of the FATCA tax compliance law, which are:

- \* Building a program and plan to comply with the requirements of the law.
- \* Appointing a FATCA official.
- \* Designate a contact person.
- \* Register on the (IRS) website and obtain a GIIN
- \* FATCA registration.
- \* Audit existing accounts.
- \* Opening new accounts according to the principles of CDD/ KYC.
- \* Training and awareness.
- \* Submit reports.

## **The second requirement**

### **Actions to be taken by banks and financial institutions to implement the tax compliance law**

There are several procedures that financial institutions must take into account, as follows:

1- Obligation to follow hobby verification procedures with regard to accounts held by financial institutions in accordance with the requirements of the US Income Tax Authority (IRS) and to identify the accounts of US persons or entities.

2- Submitting an annual report to the US Income Tax Authority on US persons or entities holding accounts with the financial institution, provided that the reports include the account balance in addition to the total deposits and withdrawals.

3- In the event that the law of the country based on the accounts subject to tax does not allow the disclosure of

information, a statement is obtained from the account holder revealing confidentiality, and in the event that the account holder refuses or does not respond, in this case the account is closed.

4- Forming technical committees and seeking the assistance of legal and financial advisors and experts in this field to prepare mechanisms to deal with the requirements of the aforementioned law.

5- Preparing the necessary policies and procedures to comply with the requirements of the law and having it approved by the board of directors of the bank or the competent authority, including the mechanism of dealing with customers who refuse to submit to the requirements of the law.

6- Training and educating employees about the requirements of the law, especially compliance monitors.

7- Counting, evaluating and classifying accounts subject to the requirements of the law.

8- Updating customer data and investigating American customers.

9- Apply due professional care procedures to clients.

10- Amending contracts, documents and account opening forms to ensure the requirements of the law.

11- Make the necessary amendments to the KYC base in line with the requirements of the law.

12- Customers' signature on the required forms in accordance with the requirements of the law.

13- Amending the banking regulations in a way that contributes to and assists in complying with the requirements of the law.

14- Preparing forms for lifting bank secrecy for the purposes of applying this law only.

15- Adhere to the timetables issued by the US Tax Authority related to the application time frame.

16- - Continuous follow-up of developments and instructions that will be issued by the American Tax Authority in Aden.

## **The third requirement**

### **Methods application Law compliance tax FATCA**

Complete application Law Compliance tax Fatka in the banks through Two approaches They[15] :

**The first approach: the individual approach** is done through it Make a direct agreement between the enterprise The foreign financial institution with the US Treasury, which guarantees that the institution will not be exposed Finance for deductions from payments that You receive it immediately FATCA code and then become an institution Finance foreign sharing and done Issuance Alsadeghah final Individual Curriculum Agreement in January 2014. This is what the Central Bank of Iraq followed.

And from during This is amazing Convention and limiter Subscribe by institutions foreign finance in Appointment end June2014The enterprise will have to Finance that get up with the following :

1. documentation and verification procedures, where will be done from through it get on required information and docs Pro to determine if He was friends the accounts Americans Mother No, the obligation to follow procedures verification from (ID) And procedures care due According and verification procedures from ID that may be demanding by following it an interest tax income American and commitment to provide any Additional information regarding US accounts party to the foreign financial institution participation.
2. Reporting through notification annually on the accounts of US persons, US entities

maintained by the institution Finance foreign committed apply the law after get on to delegate from Client detects Exception for his accounts of laws local Same relevance confidentially the accounts in what Regards dangers on all Account holders Americans and list at the institution financial, and in case it is not possible to do so so during a period temporal Reasonable Complete Account closure and termination Relationship.

### **The second approach: joint government action**

you play through it institutions Finance foreign send Reports on the data required to be reported to an official government agency within Country that get up By sending such data to the US Tax Authority in accordance with agreements concluded in this regard.

### **The Third Topic**



## **The position of the Central Bank of Iraq regarding the US FATCA law**

After the issuance of the FATCA law, it was obligatory for all financial institutions, including the Central Bank of Iraq, to abide by its application, otherwise it would face the stipulated penalties, which are very dangerous penalties that would destabilize its financial situation and stability, whether inside or outside Iraq.

Accordingly, he tended to conclude an agreement with the United States government regarding the enforcement and validity of the law inside Iraq.

Therefore, the Central Bank concluded that agreement, and here we will discuss it and what are the mechanisms used for the purpose of enforcing the law accordingly we will divide this topic into the following two requirements. As for the first requirement, we will devote it to a statement of the agreement concluded between the Central Bank of Iraq representing the State of Iraq and the Treasury Ministry representing the State of the United States. As for the second requirement, we will explain the implementation mechanisms of the agreement.

### **The first requirement**

#### **FATCA Enforcement Agreement**

An agreement has been concluded between the Government of the United States of America and the Government of Iraq regarding cooperation in order to facilitate the implementation of the Foreign Account Tax Compliance Act (FATCA).

WHEREAS the Government of the United States of America and the Government of Iraq (referred to separately as a "Party"), and together as the "Parties") wish to enter into an agreement to improve their cooperation in combating international tax evasion; and WHEREAS the United States of America has enacted provisions known as the Law Foreign Account Tax Compliance (FATCA) establishes a reporting system for financial institutions regarding certain accounts, Whereas, the Government of Iraq supports FATCA's main policy objective of improving tax compliance, and Whereas, FATCA has raised a number of issues, including that Iraqi financial institutions may not be able to comply with some aspects of FATCA due to local legal impediments

Whereas, the intergovernmental cooperation in order to facilitate the application of the Foreign Account Tax Compliance Law would address these issues and reduce the burdens on Iraqi financial institutions, and since the two parties wish to conclude a cooperation agreement in order to facilitate the application of the Foreign Account Tax Compliance Law based on the establishment of Iraqi financial institutions by notifying the IRS directly, complemented by the exchange of information upon request, subject to the confidentiality and other protections set forth herein, including provisions restricting the use of information exchanged; Based on the foregoing, the two parties agreed on the following:

Agreement between the Government of the United States of America and the Government of Iraq regarding cooperation to facilitate the implementation of the Foreign Account Tax Compliance Act (FATCA).

WHEREAS the Government of the United States of America and the Government of Iraq, each referred to separately as a "Party" and together as the "Parties" desire to conclude an Agreement in order to improve their cooperation in the field of combating international tax evasion; Whereas the United States of America has enacted provisions known as the Foreign Account Tax Compliance Act (FATCA), which establishes a reporting system for financial institutions regarding certain accounts, and as the Government of Iraq supports the main objective of the FATCA policy of improving tax compliance, and as the Tax Compliance Act FATCA has raised a number of issues, including that Iraqi financial institutions may not be able to comply with some aspects of FATCA due to domestic legal impediments; Whereas, intergovernmental cooperation in order to facilitate the implementation of the Foreign Account Tax Compliance Law would address these issues and reduce the burdens on Iraqi financial institutions.

Whereas, the two parties wish to conclude an agreement for cooperation in order to facilitate the application of the Foreign Account Tax Compliance Law based on the Iraqi financial institutions reporting directly to the US Income Tax Authority, complementing this with the exchange of information upon request, provided that the matter is subject to confidentiality and other protection controls stipulated here, including In that provisions restricting the use of the information that is exchanged and based on the foregoing, the two parties agreed on the following:

#### Article One: Definitions

1- For the purposes of this Agreement and any appendices attached to it "the Agreement", the following terms shall have the meanings shown below:

a/ The term "United States" means the United States of America, including the states-

affiliates, but does not include US territories. Any reference to a "State" of the United States includes the District of Columbia.

b/ the term "US Territory" means American Samoa or the Commonwealth of the Northern Mariana Islands or Guam, Commonwealth of Puerto Rico, or US Virgin Islands.

c/ The term "IRS" means the US Income Tax Administration.

w/ The term "Iraq" means the Republic of Iraq

A/ The term "Partner's Jurisdiction" means a jurisdiction that has a valid agreement with the United States in order to facilitate the implementation of FATCA. The IRS publishes a list identifying all partner jurisdictions.

H/ The term "competent authority" means the following:

1- In the case of the United States, the Secretary of the Treasury or his representative.

2- In the case of Iraq, the Central Bank of Iraq is the competent authority.

3- The term "financial institution" means a designated custody institution, depository institution, investment entity, or insurance company.

d/ The term "foreign reportable amount" means, as per relevant US Treasury regulations, fixed or determinable annual or periodic amounts of income that would be deductible amounts if they were from sources within the United States.

y/ The term "custodial institution" means any entity that holds financial assets for the account of others, as part of essential to his work. An entity is an entity that holds financial assets for the account of others as an essential part of his business if the entity's total income generated from holding financial assets and services

Relevant financial assets equal to or greater than 20 percent of the entity's total income during: 1/ period

The three years ending on December 31, or the last day of the period

Accounting other than the calendar year prior to the year in which the decision is made or 2/ the period in which it was made

the entity resides in, whichever is shorter.

t/ The term "depository institution" means any entity that accepts deposits in the ordinary course of a banking or similar business.

G/ The term "investment entity" means any entity that conducts as an activity or is managed by an entity that conducts as an activity one or more of the following activities or operations for the benefit of or on behalf of a customer

- trading in money market instruments (checks, bills of exchange, certificates of deposit, derivatives, etc.), foreign exchange, exchange-linked, interest rate and index instruments, or convertible securities; Or trade commodity futures contracts.

2- Managing individual and group portfolios

3- Other than the foregoing, investing, managing or supervising funds or funds on behalf of other people.

This subparagraph 1(g) shall be interpreted in a manner consistent with similar language in the definition

"Financial Institution" with the recommendations of the Financial Action Task Force.

Q/ The term "specific insurance company" means any entity that is an insurance company or company

Holding company for an insurance company that issues an insurance contract with a cash value or a contract with an annual revenue, or it is

obligated to make payments in respect of them.

U/ The term "Financial Institution affiliated with Iraq" means 1/ any financial institution subject to laws

Iraq, but excluding any branch of that Financial Institution located outside of Iraq



2/ Any branch of a financial institution that is not subject to the laws of Iraq

That branch was located in Iraq.

R/ The term "Financial Institution in Partner's jurisdiction" means 1/ any Financial Institution established in Partner's jurisdiction, but excluding any branch of such Financial Institution that is outside Partner's jurisdiction, and 2/ any branch of Financial Institution that is not incorporated Within the partner jurisdiction, if such a branch exists in the partner jurisdiction.

Z/ The term "Reporting Iraq Financial Institution" means any Financial Institution affiliated with Iraq not a non-reporting financial institution affiliated with Iraq.

i/ The term "Non-Reporting Financial Institution Affiliated to Iraq" means any Affiliated Financial Institution of Iraq, or any other entity located in Iraq, described in Appendix II as a Non-Reporting Financial Institution affiliated with or otherwise qualified as a Financial Institution to be considered

A/ compliant or exempt beneficial owner under relevant US Treasury regulations in effect on the date of signing this Agreement.

Z/ The term "non-participating financial institution" means a non-participating foreign financial institution, as per

This term is defined in relevant U.S. Treasury Department regulations, but does not include an Iraq Financial Institution or other Financial Institution in Partner's jurisdiction, other than a Financial Institution that is treated as a Non-Participating Financial Institution under the second paragraph of Article IV of this Agreement or a corresponding provision In an agreement between the United States and a partner's jurisdiction.

p/ The term "New Account" means a Financial Account opened by a Reporting Affiliate Financial Institution to Iraq on or after 1 July 2014.

N/ The term "USAccount" means a Financial Account maintained by a Reporting Affiliate Financial Institution of Iraq and is held by one or more designated U.S. persons or a non-US entity an American has one or more Controlling Persons and that Person is a Person specific American. Notwithstanding the foregoing, the account is not treated as a US account

If that account is not identified as a US account after due diligence contained in Appendix.

Q/ The term "Unapproved US Account" means an account maintained by a reporting financial institution affiliated with Iraq as of June 30, 2014. With respect to this account: 1/A reporting financial institution affiliated with Iraq has determined that it is a US account pursuant to due diligence procedures

The obligations set out in Appendix I, and 2/ the laws of Iraq preclude the reporting required by Foreign financial institution agreement in the absence of the account holder's consent, and 3/ the institutionThe reporting financial institution of Iraq requested the required consent to report or a payer identification number the account holder's US taxes, but was unable to obtain any of them, and 4/ the reporting financial institution affiliated with Iraq has reported or was required to do soReport all account information to the IRS as provided It is in sections 1471 through 1474 of the American Income Tax Code and Department regulations US Treasury related.

S/ The term "financial account" has the same meaning as given in the regulations of the US Department of the Treasury relevant, but not including any account that is excluded from the definition of a financial account in the Appendix the second.

K/ The term "Foreign Financial Institution Agreement" means an agreement that sets forth the terms, consistent with this Agreement, necessary for the Reporting Iraq Financial Institution to be treated as

In compliance with the requirements of Section 1471(b) of the US Income Tax Code

L/ The term "Account Holder" means the person listed or identified as the holder of the Financial Account by the Financial Institution operating the Account. It does not treat a person, unlike a financial institution,

Who owns a financial account for the benefit or account of another person as an agent, custodian or trustee or a party signatory, investment advisor or intermediary, to be treated as an account holder for the purposes of these Terms

agreement, and that other person is treated as the account holder. and for wholesale purposes immediately precedent, the term "financial institution" does not include a financial institution incorporated or incorporated in American Territory. In the case of a cash value insurance contract or an annual revenue contract, the account holder is any person authorized to obtain the cash value or change the beneficiary of the contract. If there is no person who can obtain the cash value or change the beneficiary, the account holder is any person named in the

contract as the owner and any person with an acquired right to receive payment under the terms of the contract. When a cash value insurance contract or an annuity contract comes due, every person entitled to receive payments under the contract is treated as an account holder.

M/ The terms "cash value insurance contract" and "annuity contract" have the same meanings given in the relevant US Treasury regulations.

n/ The term "US person" means a US citizen, a US resident, a partnership or corporation incorporated in the US or under the laws of the US or any other state or trust if: (1) a court within the United States has jurisdiction,

Under applicable law, issue orders or judgments relating to substantially all cases related to the management of the trust and (ii) one or more U.S. persons have control over the all material decisions of the trust or estate of a deceased person who is a US citizen or residing in the United States. This subparagraph (1n) shall be interpreted in accordance with the tax law american income.

e/ the term "designated US person" means a US person, other than: 1/ a company trading in; its shares on a regular basis in one or more stable stock exchanges or 2/ any member company of the same extended group affiliate, as defined in Section 1471(e)(2) of the US Income Tax Code, as a corporation described in section (y), or (iii) the United States or any other an agency or body wholly owned by it, or (iv) any state of the United States or any US Territory or any political subdivision of any of the foregoing or any owned agency or body wholly of one or more of the foregoing, or (v) any organization exempt from taxation under Section 501(a) of the IRS or a retirement plan for an individual as defined in Section 7701(a) of the IRS, or (vi) Any bank as defined in section 581 of the United States Income Tax Code, or (vii) any investment trust real estate as defined in Section 856 of the US Income Tax Code, or (viii) any an investment corporation organized as defined by Section 851 of the US Income Tax Code or any entity registered with the Securities and Exchange Commission in the United States of America Under the Investment Companies Act of 1940 (15 USC 80A-64 or (9) any mutual trust as defined in Section 584(a) of the Income Tax Code American, or (10) any tax-exempt trust under Section 664(c) of US Income Tax Act or described in Section 4947(a) of the US Income Tax Code, or (xi) a dealer of securities, commodities, or derivative financial instruments including notional underlying contracts, futures, forward contracts, and options registered on as such under the laws of the United States or any state, or (12) Broker as defined in Section 6045(c) of the US Income Tax Code.

AA/ The term "entity" means a legal person or legal arrangement such as a trust.

bb/ The term "non-US entity" means an entity that is not a US person. -

TT an entity is a "related entity" to another entity if either entity controls the entity the other or if the two entities are under joint control. For this purpose, the control includes:

Direct or indirect ownership of more than fifty percent of the vote or value in an entity Notwithstanding the foregoing, Iraq may treat an entity as not an entity related to another entity if the two entities are not members of the same extended affiliate group as it Defined in Section 1471(e)(2) of the US Income Tax Code.

w/ The term "US taxpayer identification number" means the number used to identify a US taxpayer at the federal level.

CC/ The term "Controlling Persons" means the natural persons who exercise control over an entity. In the case of a credit institution, this term means the administrator, the trustees, the trustee, if any, the beneficiaries or a group of them, and any other natural person exercising effective and absolute control over the credit institution. In the case of a legal arrangement that is not a trust, this term means persons holding equal or similar positions. The term "controlling persons" shall be interpreted in a manner consistent with the recommendations of the Financial Action Task Force.

2/ Any term not otherwise defined in this Agreement shall have the meaning it has at that time under the law of the party applying this Agreement unless the context otherwise requires or the Competent Authorities agree on a common meaning as permitted by local law, and any The meaning contained in the applicable tax laws of that party takes precedence over the meaning with which the term is used in other laws of that party.

## Article Two: Reporting and exchanging information

1- Guidance for financial institutions affiliated to Iraq. Iraq guides and empowers all institutions

The financial reporting affiliated to Iraq to do the following:

A/ Register on the IRS FATCA website on July 1, 2014 and comply with the requirements of the FFI Agreement, including with respect to due diligence, reporting, and withholding.

b/ With respect to the financial accounts held by the reporting financial institutions affiliated with Iraq as of June

30, 2014 and identified as US accounts,

1/ Require each account holder's US taxpayer identification number account and agree to report and at the same time notify the account holder in writing that

If a US taxpayer identification number and approval are not provided, (1) the IRS with all information related to the account, and (ii) may the account information gives rise to a collective request by the IRS for specific information about the account, and (iii) in such case, transfer account information to the Tax Department of Iraq and (4) the Department may tax affiliate Iraq share this information with the (IRS) according to the second paragraph of this article

2/ Report to the IRS annually, at the time and in the manner required by

The Foreign Financial Institution Agreement and related US Treasury regulations, in full necessary information regarding non-approved US accounts.

c/ in respect of accounts or liabilities of non-participating financial institutions outstanding as of June 30, 2014 that relate to a foreign reportable amount that the reporting financial institution of Iraq expects to pay,

1/ For the calendar years 2015 and 2016, each financial institution that is not participation provide the non-participating financial institution's consent to the reporting and at the same time notify the non-participating financial institution in writing that if such consent is not provided, (i) all information regarding foreign amounts paid to the non-participating financial institution will be reported to the IRS, and ( ) 2) such information may give rise to a collective request by the IRS for specific information about the account or liability, (3) in such event, the account or liability information is transferred to the IRS, and (4) may The Iraqi Tax Authority shall exchange this information with the US Income Tax Authority in accordance with the second paragraph of this article

2/ For calendar years 2015 and 2016, report to the IRS the number of non-participating non-approved financial institutions for which payments were made foreign payable to be reported during the year as well as the total value of all such payments no later than March 15 of the year following the year to which the information relates.

d/ With respect to new accounts designated as US accounts, obtain from each account holder consent to report, consistent with the requirements of the FFI Agreement, as a condition of account opening.

c/ with respect to new accounts opened by, or commitments entered into with, a non-participating financial institution on or after July 1, 2014 that have a foreign reportable amount that the Reporting Iraq-affiliated Financial Institution expects to pay, obtain Each non-participating financial institution obtains consent to report, in line with the requirements of the FFI Agreement, as a condition of opening the account or entering into a commitment.

2/ Exchange of information.

A/ The appropriate US authorities may, in the context of applying the Accounts Tax Compliance Act foreign nationals, to file collective applications with the appropriate authority in Iraq based on the aggregate information reported to the IRS under the guidance in Subparagraphs 1(b)(2) and 1(c)(2) of this section, to obtain all information regarding unapproved U.S. accounts and foreign reportable amounts paid to non-participating financial institutions and the reporting Iraq-affiliated financial institution must Report it under the FFI Agreement if it has been approved.

B/ The competent US authority may also submit follow-up requests to the competent authority in Iraq for the purpose of obtaining additional information related to an unapproved US account, including account statements prepared in the normal course of operation of the reporting financial institution affiliated with Iraq. Which summarizes the activity on the account including withdrawals, transfers and closures.

C / The competent authority in Iraq shall provide the competent American authority with the information that

Required by the competent US authority under subparagraphs 2(a) and 2(b) of this section regardless of whether the competent authority in Iraq needs the information for its own tax purposes or whether the information relates to an investigation of conduct that may have occurred.

It constitutes a crime according to the laws of Iraq if such behavior took place in Iraq. If The information in the possession of the competent authority in Iraq was insufficient to enable it to comply with the request for information, the competent authority of Iraq uses all Relevant information gathering procedures for providing information to the appropriate US authority required. Privileges granted under the laws and practices of the United States will not apply to you execution of a request by the appropriate authority in Iraq and the availability and enforcement of any such concessions shall be the sole responsibility of the United States.

D/ With respect to the existence of a collective request submitted by the competent US authority as specified in subparagraph 2(a) of this article, the competent authority in Iraq shall, within six months of receiving the collective

request, provide the competent US authority with all requested information in the same form that would have been communicated. The information in it if it was reported directly to the IRS by the reporting financial institution affiliated with Iraq. The Competent Authority of Iraq shall notify the Competent US Authority and the relevant Reporting Financial Institution of Iraq whether there will be any delay in sharing the requested information. In such event, the provisions of Article III subparagraph 2(b) of this Agreement shall apply with respect to the Reporting Financial Institution of Iraq and the Competent Authority of Iraq shall exchange the requested information with the Competent U.S. Authority as soon as possible.

C / Notwithstanding the provisions of sub-paragraph -2 (a) of this article, the competent authority in Iraq is not required to obtain a special US taxpayer identification number to the disapproving US account holder and exchange it if that number is not listed in the records of the reporting financial institution affiliated with Iraq. In such a case, the power competent in Iraq to obtain and include the date of birth of the relevant person among the information exchanged if this date of birth is included in the institution's records. Reported financial belonging to Iraq.

h/ Applications submitted pursuant to subparagraphs 2 (a) and 2 (b) of this Article shall apply to information for the period of time beginning on or after the date this Agreement is signed.

## Article three

Application of the Foreign Account Tax Compliance Act to financial institutions affiliated to Iraq

1/ Dealing with reporting financial institutions affiliated with Iraq. Each financial institution is treated as a reporting affiliate of Iraq, registered with the IRS on the IRS FATCA website, and complying with the terms of the FFI Agreement as compliant with the requirements of IRS Section 1471 and not withholdable under this Act, pursuant to the provisions of the second paragraph of Art. fourth in this agreement.

2/ Suspension of rules regarding non-approved US accounts.

A/ The United States will not, pursuant to subparagraph 2(b) of this section, require a Reporting Financial Institution affiliated with Iraq to withhold tax under Section 1471 or 1472 of the US Income Tax Code with respect to an account held by a reluctant account holder as defined in Section 1471 ( d)(6) of the US Income Tax Act or close this account if:

1/ The reporting financial institution affiliated with Iraq was in compliance with the directives in para the first of Article II of this Agreement in connection with the account.

2/ The competent authority in Iraq exchanged with the competent American authority the requested information mentioned in subparagraph 2 (a) of Article II of this agreement within six months from the date of receiving that request.

b/ If the condition in subparagraph 2 (a) (2) of this article is not fulfilled, the reporting financial institution affiliated with Iraq treats the account as being held by an account holder denial as defined in relevant U.S. Treasury regulations, including by withholding tax where required under these U.S. Treasury regulations, beginning on the date on which six months have passed from the date on receipt of the request in subparagraph 2(a) of Article II of this The agreement ends with the date on which the competent authority in Iraq exchanges the required information with the competent American authority.

3/ Special treatment of Iraqi retirement plans. The United States handles Iraqi retirement plans those designated in Appendix II as deemed-compliant FFIs or exempt beneficial owners, as appropriate, for the purposes of Sections 1471 and 1472 of the US Income Tax Code. For this purpose, the Iraqi Retirement Plan includes an entity incorporated and located in or organized by Iraq or a predetermined contractual or legal arrangement that is administered to provide a pension or retirement benefit or to earn income for the provision of such benefits under the laws of Iraq and is organized with respect to contributions, distribution, reporting, sponsorship and subjection to taxation. Identification and treatment of other deemed compliant foreign financial institutions and exempt beneficial owners. The United States treats every non-reporting financial institution affiliated with Iraq as a financial institution a foreigner deemed to be in compliance or an exempt beneficial owner as applicable, for the purposes of Section 1471 of the US Income Tax Code.

5. Special rules related to entities and related branches that are non-participating financial institutions. If a financial institution affiliated with Iraq meets the requirements listed in Article Two of this Agreement or is mentioned in paragraphs three or four of this Article, and has a related entity or subsidiary that operates in a jurisdiction that precludes that related entity or branch from meeting the requirements of the Financial Institution A participating foreign or foreign financial institution that is deemed to be in compliance for the purposes of Section 1471 of the US Income Tax Code, or has a related entity or subsidiary that is treated as a non-participating financial institution only because of the expiration of the transitional rule for foreign financial institutions limited and limited subsidiaries under Department of State regulation. The relevant US Treasury, that financial institution of Iraq continues to be treated as a participating FFI, a deemed-compliant FFI, or an exempt beneficial owner, as

appropriate, for the purposes of Section 1471 of the US Income Tax Code, provided that:

A/ The Iraq Financial Institution shall treat each such Related Entity or Branch as a separate Non-Participating Financial Institution and each such Related Entity or Branch shall identify itself to Withholding Agents as a Non-Participating Financial Institution.

b/ Each such related entity or subsidiary identifies its own US accounts and reports to the IRS information regarding such accounts as required by Section 1471 of the US Income Tax Code to the extent permitted by relevant laws relating to the related entity or subsidiary.

c/ That related entity or subsidiary does not specifically solicit U.S. accounts held by persons who are not residents of the jurisdiction in which such related entity or subsidiary is located or accounts held by non-participating financial institutions that are not located in such jurisdiction such entity or subsidiary, and that such entity or related subsidiary shall not be used by the Iraq Financial Institution or any other related entity to circumvent obligations under this Agreement or under Section 1471 of the Income Tax Code American, as appropriate.

6/ Coordination of tariffs with US Treasury regulations. Notwithstanding the provisions of Article 1 of this Agreement and the definitions contained in the Annexes to this Agreement, Iraq may use, or permit its financial institutions to use, in applying this Agreement, a definition found in relevant US Treasury regulations instead of a similar definition in this Agreement Provided that such application does not adversely affect the purposes of this Agreement.

## Article four

### Verification and enforcement

1/ Minor and administrative errors. Consistent with the terms of the FFI Agreement, the appropriate US authority may direct an inquiry directly to a Reporting Iraq Financial Institution when it has reason to believe that administrative errors or other minor errors may have led to the reporting of false or incomplete information not consistent with the requirements of the Institution Agreement foreign finance. The Competent Authority Agreement or Arrangement may provide that the U.S. Competent Authority notifies the Iraq Competent Authority when the U.S. Competent Authority makes such an inquiry about a Reporting Partner Country Financial Institution regarding a Reporting Financial Institution's compliance with the terms of this Agreement.

2/ Serious non-compliance. The US Competent Authority will notify the Competent Authority in Iraq when the US Competent Authority determines that there has been a serious non-compliance with the requirements of the FFI Agreement or this Agreement with respect to the Reporting Iraq Financial Institution and if the non-compliance has not been addressed within 12 months of the US Competent Authority's first submission Upon notification of a serious compliance situation, the United States treats the Reporting Iraq Financial Institution as an institution. nonparticipating funds pursuant to this second paragraph.

3/ Consultation / agreement or arrangement with the authority The competent authorities of Iraq and the United States may consult on notified cases of serious non-compliance pursuant to the second paragraph of this Article. After signing the extent of the agreement, the competent authorities of Iraq and the United States will conclude an agreement or arrangement under the mutual consent procedures provided for in Article VII of this agreement, which will:

A/ Developing procedures for exchanging the information mentioned in the second paragraph of Article Two of this agreement.

b/ Determine the rules and procedures as necessary for the implementation of this Article.

4/ Relying on third parties to provide services: In accordance with the provisions of the FFI Agreement and the relevant US Treasury regulations, reporting financial institutions affiliated with Iraq may use third parties to provide services in order to fulfill the requirements of the FFI Agreement, but these requirements remain the responsibility of the financial institutions Reporter of Iraq.

## Article five

### Mutual commitment to further enhance the effectivenessInformation sharing and transparency

1/ Processing payments in transit and total returns. The two parties are committed to working together and within ranges

Partner jurisdictions in order to develop an alternative approach that is practical and effective to achieve the policy objectives related to the withholding of foreign payments in transit and the gross proceeds that would reduce the burden.



2/ Develop a common form for reporting and exchanging information. The parties will work with the Partner Jurisdictions and the Organization for Economic Co-operation and Development to adapt the terms of this Agreement and other agreements between the United States and the Partner Jurisdictions to a common model for the automatic exchange of information, including the development of reporting and due diligence standards for financial institutions.

## Article VI

Consistency in applying FATCA across partner jurisdictions:

1/ Iraq may benefit from any more favorable terms under Article III or Appendix I of this Agreement regarding the application of FATCA to financial institutions affiliated with Iraq that are granted to another partner's jurisdiction pursuant to a signed bilateral agreement under which the other partner's jurisdiction is bound to perform the same obligations as Iraq And mentioned in Article Two of this Agreement, and based on the same terms and conditions contained therein, as well as in Articles Four, Six, Nine and Ten of this Agreement.

2/ The United States shall notify Iraq of any such more favorable terms, and such more favorable terms shall apply automatically under this Agreement as if those terms were specified in this Agreement and effective as of the date of entry into force of the Agreement including the more favorable terms, unless Iraq declines to applied.

## Article VII

consent procedures:

1/ Wherever difficulties or doubts arise between the two parties regarding the implementation, application or interpretation of this Agreement, the competent authorities shall endeavor to settle the matter by mutual consent.

2/ The competent authorities may adopt and apply procedures that facilitate the implementation of this agreement.

3/ The competent authorities may communicate with each other directly for the purposes of reaching a compromise in accordance with this article.

## Article eight

Confidentiality:

1/ The competent authority in Iraq shall treat any information it receives from the United States under the second paragraph of Article Two and Article Four of this Agreement as confidential information and shall not disclose such information except as may be necessary to fulfill its obligations under this Agreement. Such information may be disclosed in connection with judicial proceedings related to the implementation of Iraq's obligations under this Agreement.

2/ Information provided to the appropriate US authority pursuant to paragraphs two of Articles II and Article IV of this Agreement shall be treated as confidential and may only be disclosed to persons or authorities, including courts and administrative agencies of the Government of the United States, concerned with the assessment, collection, administration or administration of US federal taxes. Enforcement, prosecution, adjudication of appeals, or oversight of such functions. Such persons or authorities shall only use such information for these purposes. These persons may disclose the information in public judicial proceedings or in court rulings. The information may not be disclosed to any other person, entity, authority or jurisdiction. The information may, notwithstanding the foregoing, be used for the permitted purposes

In accordance with the provisions of a valid mutual legal assistance agreement between the two parties that allows the exchange of tax information, when Iraq provides a prior written consent to do so.

## Article nine

Consultations and adjustments:

1/ In the event of any difficulties arising when implementing or interpreting this agreement, either party may request, independently of the mutual agreement procedure mentioned in the first paragraph of Article 7 of this agreement, consultations to take appropriate measures to ensure the implementation of this agreement.

2/ This agreement may be amended by a written agreement between the two parties. Such amendment shall enter into force through the same procedures stipulated in the first paragraph of Article Eleven of this Agreement, unless otherwise agreed upon.

## Article X

Supplements:

The Annexes form an integral part of this Agreement.

## **Article eleven**

Term of agreement

1/ This Agreement shall enter into force on the date of the written notification from Iraq to the United States stating that Iraq has completed its internal procedures necessary for the entry into force of this Agreement.

2/ Either party may terminate this Agreement by sending a written notice of termination to the other party. Such termination shall become effective on the first day of the month following the expiry of a period of 12 months after the date of the notice of termination.

3/ Each of the Parties shall, in the event of termination of the Agreement, remain bound by the provisions of Article VIII of this Agreement with respect to any information obtained under this Agreement. In witness whereof, the undersigned hereunder as duly authorized by their respective governments to sign this Agreement.

For the United States Government:

For the Government of the Republic of Iraq

## **The second requirement**

### **Mechanisms for implementing the agreement (FATCA law) between the government of Iraq and the United States**

The Central Bank of Iraq is considered the first responsible to the US Treasury Department regarding the implementation of the FATCA law, and therefore it signed the issuance of instructions in this regard

Indeed, the first circular was issued in the number 12/1875 in the year 2015, and the clarification was issued in the number 11/5665 on 11/27/2017, as well as the circular in the number 11/7416 on 14/10/2019.

The entirety of what was mentioned in these circulars and instructions to financial institutions that are under his supervision can be summarized as follows:

1- All Iraqi financial institutions are bound by the timings set by the US Internal Revenue Service to implement the FATCA law.

2- For this purpose, the Republic of Iraq has taken, since 2013, the necessary steps to make institutions comply, and has formed several committees headed by the Central Bank of Iraq to manage this file in order to fulfill the requirements in the FATCA law.

3- With regard to the deadlines for implementing the law, it passed through two stages, namely:

A/ The first: It relates to the accounts existing on 6/30/2014. With regard to the accounts existing until this date, financial institutions make sure that their owners are Americans or non-Americans.

B/ The new accounts that were opened on or after 1/7/2014, so the declaration must be made before 3/31 of the following year.

4- The Central Bank of Iraq obliged all financial institutions to obtain a registration number (GIIN) with the US Internal Revenue Service.

5- The Central Bank of Iraq warned financial institutions of the consequences of non-compliance with FATCA law, including the imposition of a tax of 30% of the amounts received from America to the financial institution in Iraq, with the possibility of closing its account with the compliant financial institution.

6- The Central Bank of Financial Institutions has put several indicators on the account documented with it, which is an American account, for example:

A/ To be a holder of American citizenship or residing in the United States

b/ Place of birth in the United States

A/ He has a mailing address in the United States

D/ He has an American phone number

E/ He has an account that transfers money to the United States

And / a valid power of attorney granted to a person whose address is in the United States

## Conclusion

### First Results:

1. The FATCA Tax Compliance Act is just a disclosure law and applies only to US citizens, through which it is required to make sure that its citizens who are subject to the tax system in the first place are committed to paying the taxes due on them, including pursuing evaders from them.
2. The Tax Compliance Act (FATCA) is merely a control mechanism to ensure that US taxpayers comply with existing tax laws, and the information required by the law is the same information that the IRS requires from taxpayers.
3. FATCA aims to prevent tax evasion by US taxpayers through the use of non-US financial institutions and investment vehicles abroad.
4. Despite the unstable conditions in the region, the Iraqi banking sector has proven that it is able to maintain a solid financial balance, and the ability to absorb the pressures it faces and act to contain unexpected crises, thanks to the commitment of Iraqi banks to apply banking legislation, international standards, principles of prudence and management. Risks.
5. This law contradicts the laws of banking secrecy and privacy, and banks, in particular, fell between the hammer of the FATCADA law and the strict banking secrecy laws in many countries.

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