

FATCA

Achieving compliance

Key FATCA milestones



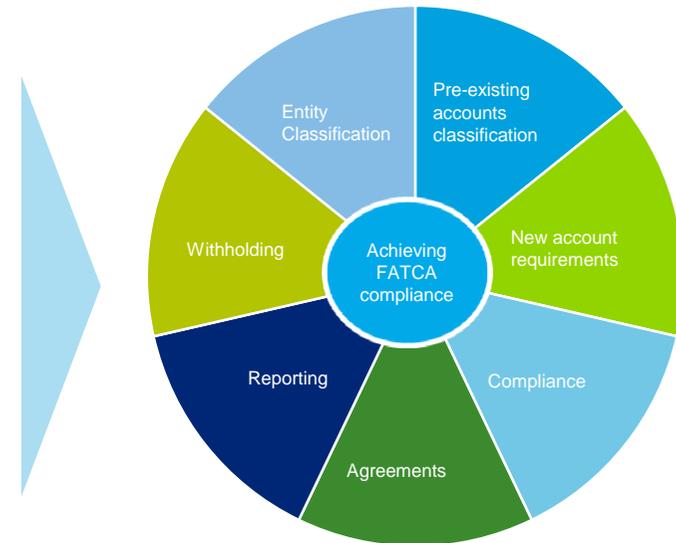
Overview

The Foreign Account Tax Compliance Act (FATCA) is the US government's initiative to ensure transparency in relation to offshore accounts held by US persons. FATCA imposes a 30% withholding tax on US source passive income, such as interest, dividends, rent and royalties, and also on gross proceeds from the disposition of assets which give rise to such passive income. This withholding will apply from 1 July 2014 unless foreign financial institutions (FFI), including non-US funds, enter into an agreement with the IRS and agree to annually report details of all US investors to the IRS and withhold tax on any "passthru" payments made to investors.

A series of intergovernmental agreements (IGAs) have been signed between various jurisdictions, including Ireland, and the US Treasury/IRS. These agreements enable FFIs to report locally and register for FATCA rather than having to sign an individual agreement with the IRS.

Determining FATCA obligations

- 1 Identify Financial Institutions
- 2 Identify Financial Accounts
- 3 Classify holders of Pre-existing Financial Accounts
- 4 Update on-boarding of new Financial Accounts
- 5 Identify reporting and withholding requirements
- 6 Report information on relevant accounts to relevant authority



Key FATCA risks

Reputational	<ul style="list-style-type: none"> The IRS is publishing a list of all FATCA compliant global Financial Institutions on 2 June 2014, businesses have until 25 April 2014 to register.
Commercial	<ul style="list-style-type: none"> Many FIs have announced that they will only conduct business with FATCA compliant counterparties, which could create serious commercial issues for non-compliant FIs.
Legal	<ul style="list-style-type: none"> In Model 1 IGA jurisdictions, compliance with FATCA will be mandatory under local law. Penalties will be applicable where a Reporting Financial Institution fails to provide/provides inaccurate information.
Future proofing	<ul style="list-style-type: none"> New FATCA equivalents are expected to increase the exchange of information going forward so it is important to act now to develop an approach that can be adapted.

Entity Classification	Classify entities in the reporting financial institution's group. Note a non-complying entity will not prevent compliance by others
Withholding	Under the Irish IGA Irish FIs will not be subject to withholding tax on US source income. However Non-Participating FIs in non-partner countries may still be subject to withholding at source on US sourced withholdable payments
Reporting	Report information to the competent authority in respect of US Reportable accounts and to immediate payor in respect of US Source Payments to noncomplying Financial Institutions
Pre-existing accounts classification	Identifying relevant in scope Financial Accounts. Search pre-existing individual and entity accounts to classify them for FATCA purposes and identify US Reportable Accounts
Agreements	Register with IRS to report as required
Compliance	Compliance enforced by various measures under IGA, including classification as Non-Participating where significant non-compliance and anti-avoidance measures
New Account requirements	Ensure on-boarding processes capture 'self certification' data and that the reasonableness of such data can then be confirmed based on FI's internal information