



Link & Learn

FATCA implementation

27 March 2014

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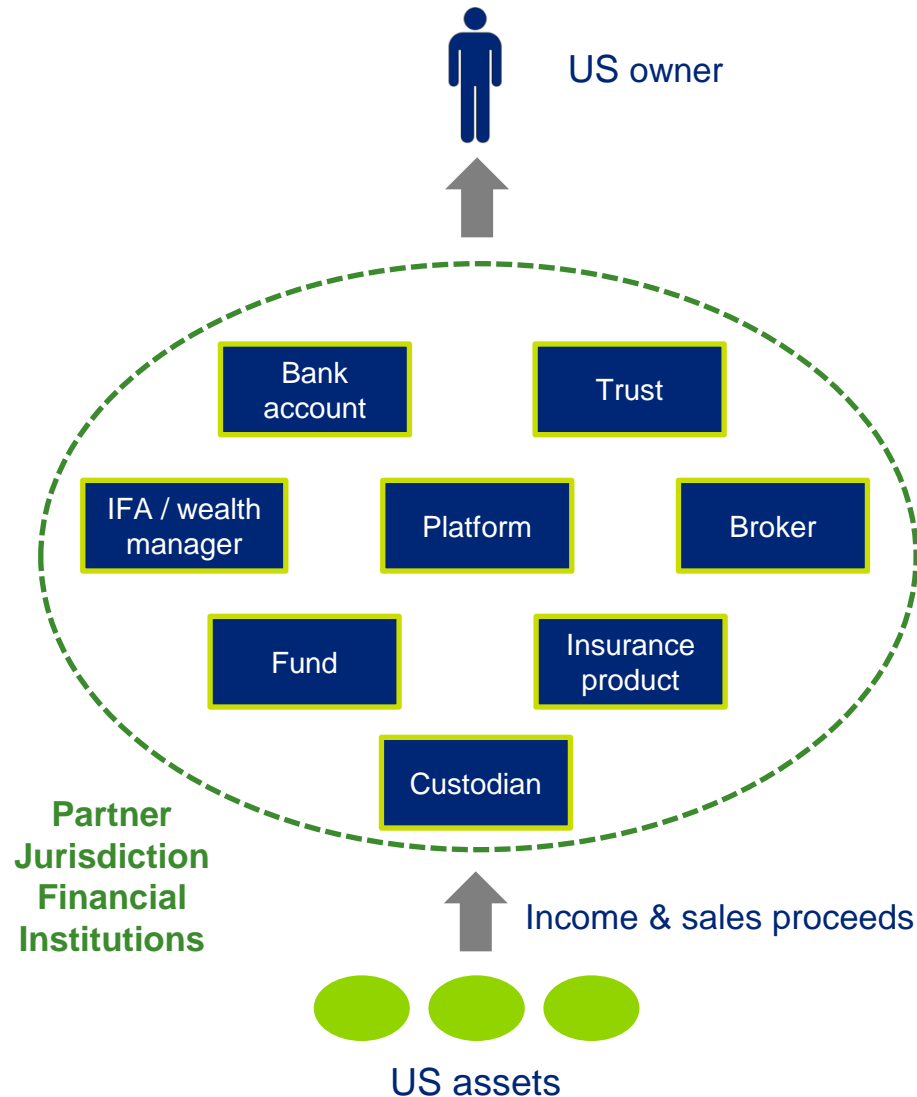
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FATCA overview



Foreign Account Tax Compliance Act

Overview



IRS concern

- US persons escape their US tax obligations by holding assets through non-US structures & products.

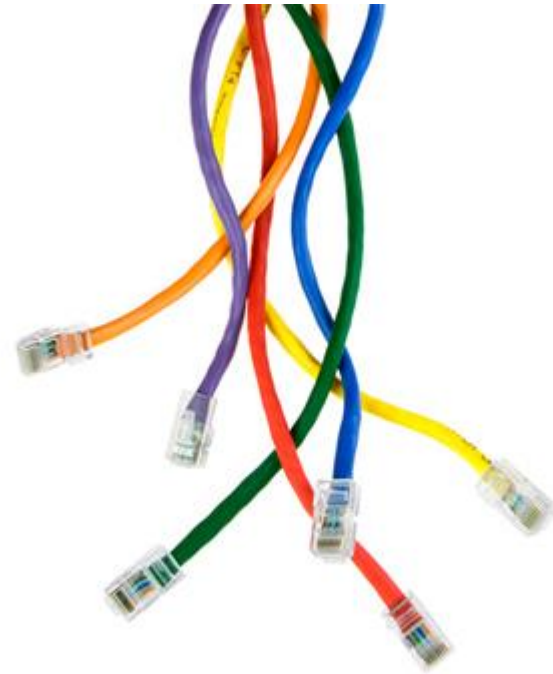
IRS response

- Non-US financial institutions designated Foreign Financial Institutions or “FFIs” under draft Regulations, and Partner Jurisdiction Financial Institutions (when in a jurisdiction within the IGA network).
- Partner Jurisdiction Financial Institutions will be required to register with the IRS and report on all US Reportable Accounts and payments to their respective Revenue or the IRS.
- Compliance to IRS’ response to be implemented through a framework of IGAs.

Implications of non-compliance

- Reputation and commercial risks, reporting as Nonparticipating Financial Institution and application of regulations.
- Once enacted in legislation, will be a legal requirement to comply where satisfy Financial Institution definition.

Latest technical developments



Latest technical developments

Specific considerations in the UK

US FATCA

- UK/US Intergovernmental agreement signed September 2012
- UK Regulations in force as of 1 September 2013 (incorporating US-UK IGA)
- Updated UK guidance released 28 February 2014

UK FATCA

- Agreements signed between the UK and its Crown Dependencies/various Overseas Territories by the end of 2013 (note only the UK-CD/Gibraltar agreements are reciprocal)
- Final UK Regulations implementing the UK-CD/Gibraltar agreements released March 2014 (note some differences from the regulations implementing the UK/US agreement)
- Draft UK guidance released 3 February 2014 (highlighting differences from US FATCA guidance)
- Draft CD guidance released 31 January 2014 for consultation (draft CD regulations not yet released)

Latest technical developments

Specific considerations in the UK – US FATCA

Number of key amendments in the latest version of the UK Guidance implementing US FATCA, including:

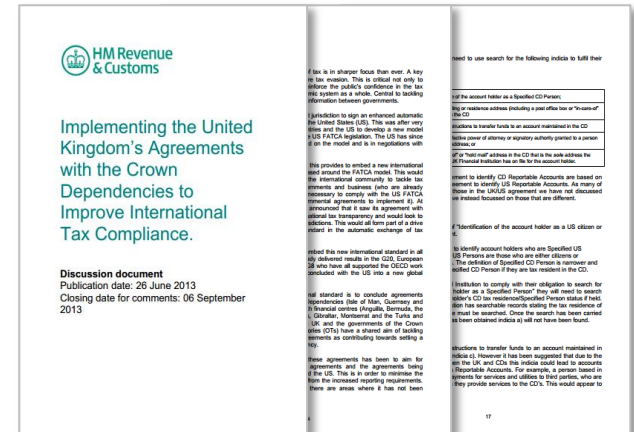
- **Investment entities** – Definition aligned to the US Regulations and further clarity provided around treatment of investment advisors
- **Related entities** – Updated position provided on treatment re US accounts
- **Holding Companies** – Four point test included in relation to whether a Holding Company will be in scope for PE or similar funds
- **Trusts** – Further guidance provided with respect to treatment of trusts as financial institutions and where they may be considered to be professionally managed
- **Debt & Equity interests** – Regularly traded on established securities market exemption has been updated to include a number of restrictions on where this can be applied
- **Self-Certification** – Requirement to establish tax residency under UK Regulations but Guidance provides some flexibility regarding the timing of recording on systems.
- **Relationship Managers** – Clarification that only applies to high-value accounts

Latest technical developments

Specific considerations in the UK – UK FATCA

Main body of the UK FATCA Agreements broadly in line with the current US IGAs (including key timings), with some key differences:

- UK FATCA only impacts FIs in UK and CDs/OTs
- Reportable persons are defined with reference to residency rather than citizenship *and* residence.
- The first reporting deadline will be 31 May 2016
- There is an Alternative Reporting Regime for UK Resident Non-Doms
- No concept of Non-Participating FIs or Recalcitrant account holders
- No withholding requirements
- No additional registration requirement at present
- No holding company or treasury centre definition
- Specified person definition is different and will include some FIs



Crown Dependencies	Overseas Territories
Guernsey	Anguilla
Isle of Man	Bermuda
Jersey	British Virgin Islands
	Cayman Islands
	Gibraltar (reciprocal)
	Turks and Caicos Islands

Latest technical developments

FATCA and beyond

Ireland FATCA

- Ireland and the US signed an Intergovernmental Agreement (IGA) with respect to FATCA on 21 December 2012.
- On 3 May 2013 Irish Revenue published draft Regulations and draft Guidance Notes which provide clarity on how Irish financial institutions will comply with the provisions of FATCA.
- Subsequently, Irish Revenue published updated draft Regulations and draft Guidance Notes on 7 February 2014. Revenue will accept observations / comments on this updated draft document up to 21 May 2014 from industry groups and tax practitioners.

Latest technical developments

Specific Considerations in Ireland

Exchange Traded Funds (ETFs)

- Based on an ETF's activities, it should fall within the definition of an Investment Entity and will therefore need to register as a FFI.
- Definition of 'financial account' in the US-Ireland IGA excludes interests that are regularly traded on an established securities market.
- The revised draft Guidance Notes have updated details regarding ETFs whose securities are held through a central securities depository (CSD). It clarifies that it is the members of the CSD who have responsibility for FATCA reporting, rather than the ETF itself. However, the notes refer specifically to CREST CSDs. While the IFIA welcomes this, they are still in discussions with Irish Revenue to clarify the section such that other CSDs, other than CREST CSDs, are treated in the same manner.

Unit Trust/Variable Capital Company/Common Contractual Funds/Investment Limited Partnership

- The funds should fall within the definition of an Investment Entity as these funds invest money/funds on behalf of other persons (unless it can be classified as a deemed compliant Financial Institution under one of the exceptions).
- A decision will need to be made as to whether the umbrella fund or the sub-funds will register as FIs with the IRS – the revised Guidance Notes remain silent on this issue.
- The IFIA have recommended that the guidance notes should be updated to provide that FFI status is applied at the umbrella level with an option to allow for a sub fund reporting level for entities that may have a mix of exempt funds and funds subject to FFI status to reduce the amount of work needed to comply with FATCA.
- An Irish Management Company may benefit from deemed compliant status depending on the activities undertaken.

Self certification

- IFIA is in discussions with Revenue on drafting the relevant forms.

Latest technical developments

FATCA and beyond

Luxembourg FATCA

- Announcement of a Model 1 IGA on 21 May 2013.
- Finalisation of IGA Model I announced end of February 2014 (except approval of French translation)
- Expected publication of IGA before end of March 2014
- Model 1 IGA will waive banking secrecy and allow automatic exchange of information through Luxembourg tax authorities (IT infrastructure to be defined)

Latest technical developments

Specific Considerations in Luxembourg

A couple of key questions

- Is it advisable to register before IGA is signed ?
- Investment funds: registration at fund or sub-fund level ?
- In which case are Soparfi's to be considered as FFI ?

Latest technical developments

FATCA and beyond

OECD – Common Reporting Standard (“CRS”)

- CRS released 13 February 2014 based on format of the Model 1 US IGAs that have already been signed (but some important differences)
- Joint statement released by the ‘Early Adopters Group’ in relation to the CRS released on 19 February 2014, which stated the expected start date for CRS to be no earlier than the end of September 2017.
- OECD Commentary to CRS expected to be released in coming months
- Alternative forms of self certification may also be released in similar timeframe

Where does this leave us?

- Future proofing of FATCA solution can no longer be ignored
- Identifying tax residency of customers is now the required standard, as opposed to determining whether a customer is US or not
- The need for an alternative standard form of self certification is now imperative
- Understanding the differences between each set of regulations is critical to ensuring change is adopted in a robust but efficient manner
- Relationships with multiple tax authorities will need to be managed
- Link with other developments, such as the amended EU Savings Directive, likely to be applicable as from 2017, and the Administrative Cooperation Directive

Intergovernmental Agreements

Asia-Pacific

Australia	1	Model 1 Expected
China	1	Model 1 Expected
Hong Kong	1	Model 2 Expected
India	3	Exploring Options
Japan	✓	Model 2 (Jun 2013)
Korea	2	Actively Engaged
Malaysia	2	Actively Engaged
New Zealand	2	Actively Engaged
Singapore	1	Model 1 Expected
Taiwan	2	Actively Engaged

Middle East

Bahrain	1	Model 1 Expected
Kuwait	4	US Regulations
Israel	2	Actively Engaged
Lebanon	3	Exploring Options
Oman	4	US Regulations
Qatar	4	US Regulations
Saudi Arabia	4	US Regulations
United Arab Emirates	4	US Regulations
Jordan	4	US Regulations
Morocco	4	US Regulations

Africa

Mauritius	✓	Model 1 (Feb 2014)
Seychelles	3	Exploring Options
South Africa	3	Exploring Options

Europe

Belgium	2	Actively Engaged	Jersey	✓	Model 1 (Dec 2013)
Cyprus	1	Model 1 Expected	Liechtenstein	2	Actively Engaged
Czech Republic	3	Exploring Options	Luxembourg	1	Model 1 Expected
Denmark	✓	Model 1 (Nov 2012)	Malta	✓	Model 1 (July 2013)
Estonia	2	Actively Engaged	Netherlands	✓	Model 1 (Dec 2013)
Finland	✓	Model 1 (Mar 2014)	Norway	✓	Model 1 (April 2013)
France	✓	Model 1 (Nov 2013)	Romania	3	Exploring Options
Germany	✓	Model 1 (May 2013)	Russia	3	Exploring Options
Gibraltar	1	Model 1 Expected	Slovak Republic	2	Actively Engaged
Guernsey	✓	Model 1 (Dec 2013)	Slovenia	1	Model 1 IGA initialed
Hungary	✓	Model 1 (Feb 2014)	Spain	✓	Model 1 (May 2013)
Ireland	✓	Model 1 (Dec 2012)	Sweden	2	Actively Engaged
Isle of Man	✓	Model 1 (Dec 2013)	Switzerland	✓	Model 2 (Feb 2013)
Italy	✓	Model 1 (Jan 2014)	United Kingdom	✓	Model 1 (Sep 2012)

Caribbean

Bahamas	1	Model 1 Expected
Barbados	1	Model 1 Expected
Bermuda	✓	Model 2 (Dec 2013)
British Virgin Islands	1	Model 1 Expected
Cayman Islands	✓	Model 1 (Nov 2013)
St. Maarten	3	Exploring Options

Americas

Argentina	2	Actively Engaged
Brazil	3	Exploring Options
Canada	✓	Model 1 (Feb 2014)
Chile	✓	Model 2 (Mar 2014)
Costa Rica	✓	Model 1 (Nov 2013)
Mexico	✓	Model 1 (Nov 2012)

Key: ✓ IGA concluded

1 IGA Expected Soon
2 Actively Engaged

3 Exploring Options
4 US Regulations

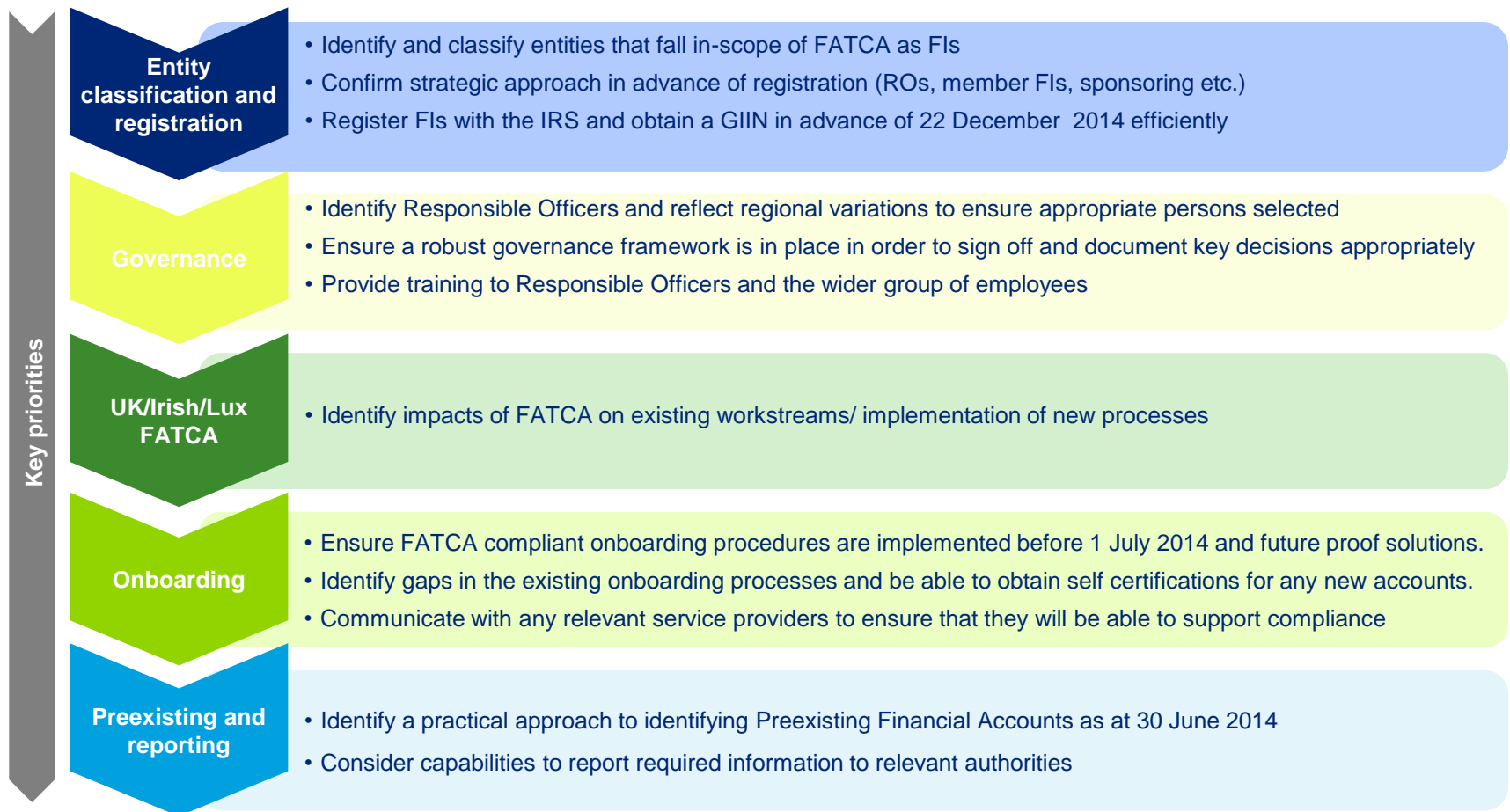
Key priorities/requirements



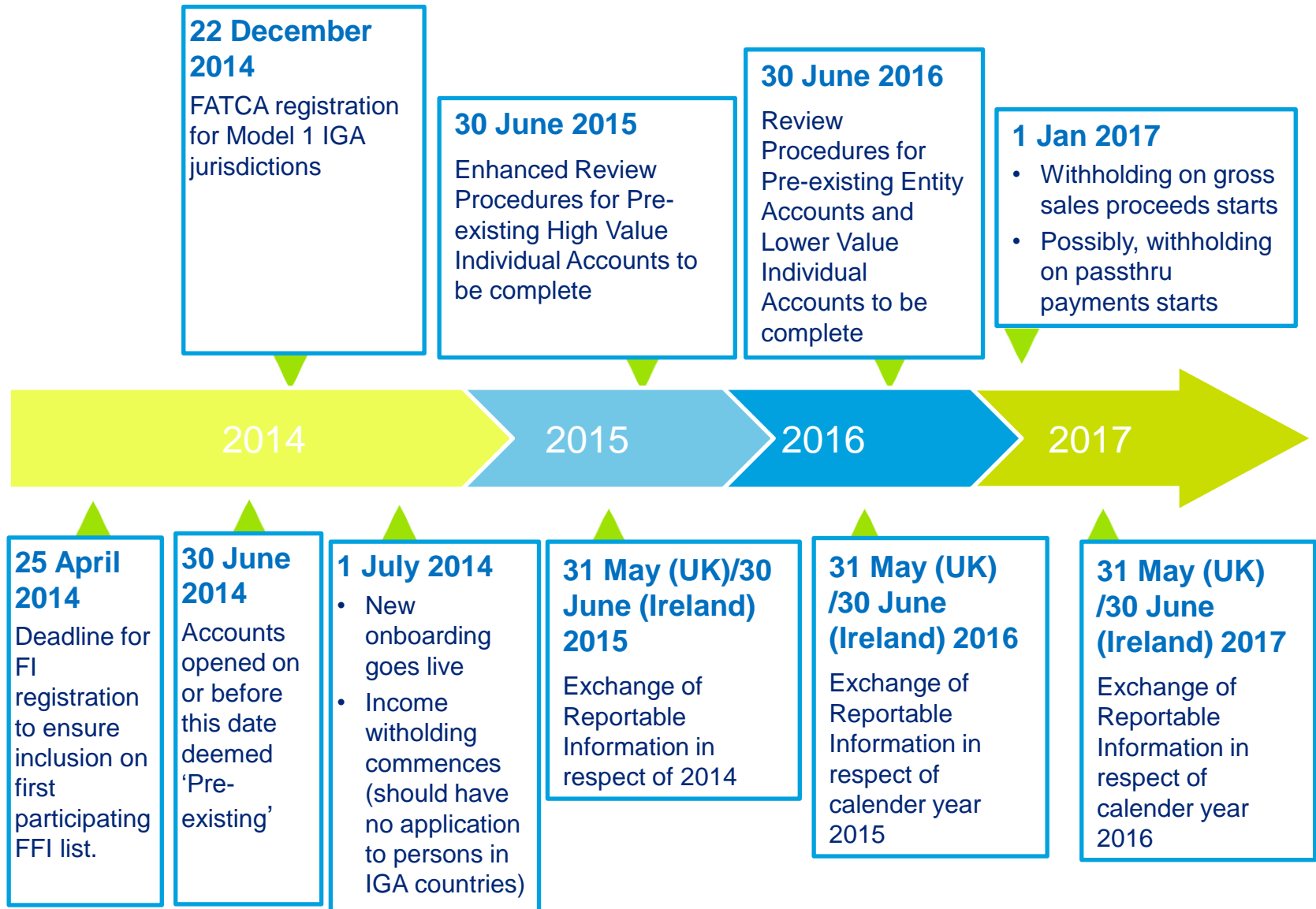
Exchange of information agreements

Key priorities

- Although FATCA impacts a number of areas across businesses there are a number of key work streams that the industry are currently focussing on which we have set out below.



FATCA - Timings in IGA Countries



Why comply with US FATCA?

Risks for Financial Institutions not achieving compliance

1. Reputational

- 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 (or 22 December 2014 if in a Model 1 IGA country).

2. Commercial

- Many FIs have announced that they will only conduct business with FATCA compliant counterparties, which could create serious commercial issues for non-compliant FIs.

3. Legal

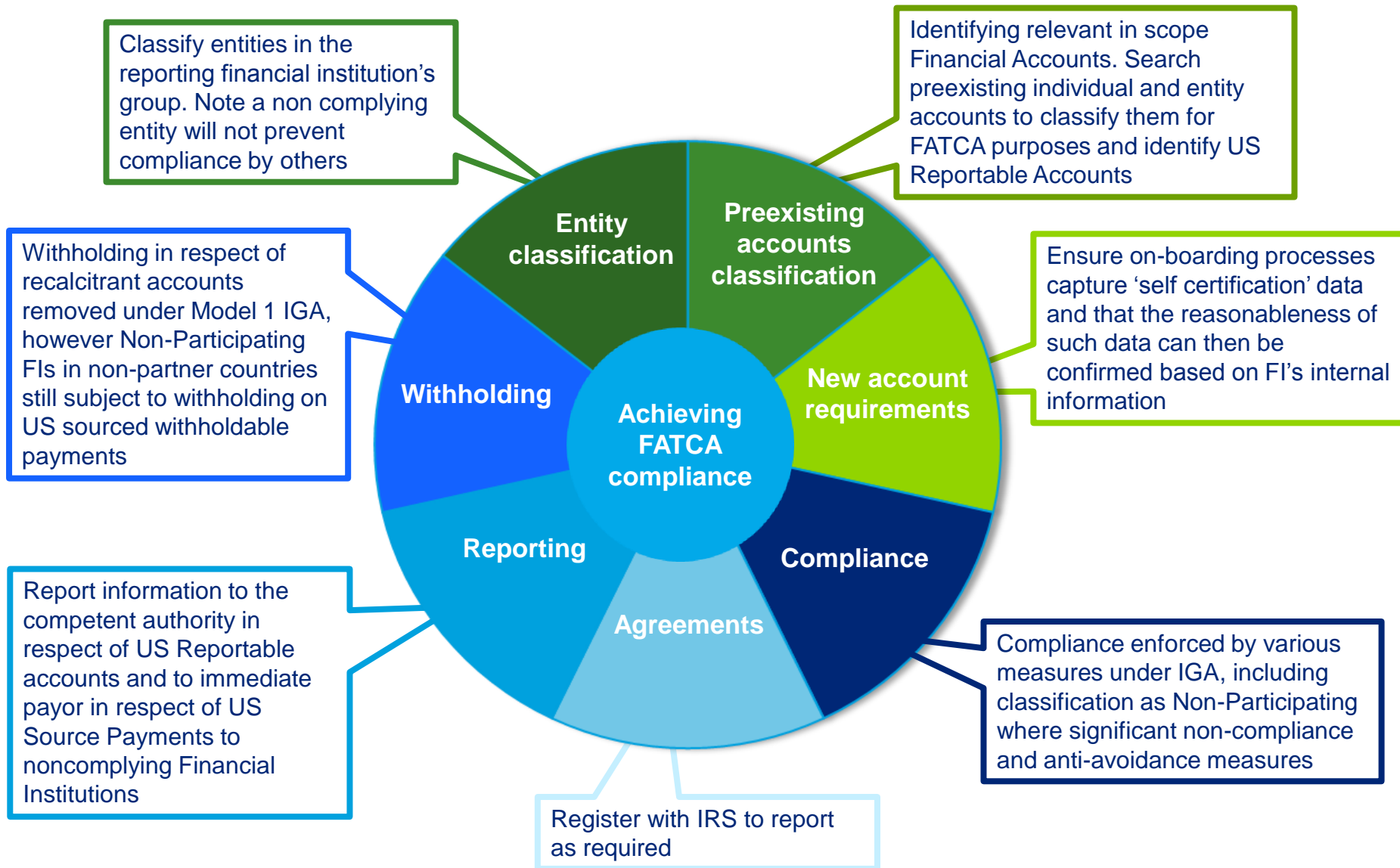
- In Model 1 IGA jurisdictions, **compliance with FATCA will be mandatory under local law.**
- Penalties will be applicable where a Reporting Financial Institution fails to provide/provides inaccurate information.

4. Future proofing

- New 'FATCA-like' agreements will increase the exchange of information going forward so it is important to act now to develop an approach that can be adapted.

FATCA

Obligations for Financial Institutions

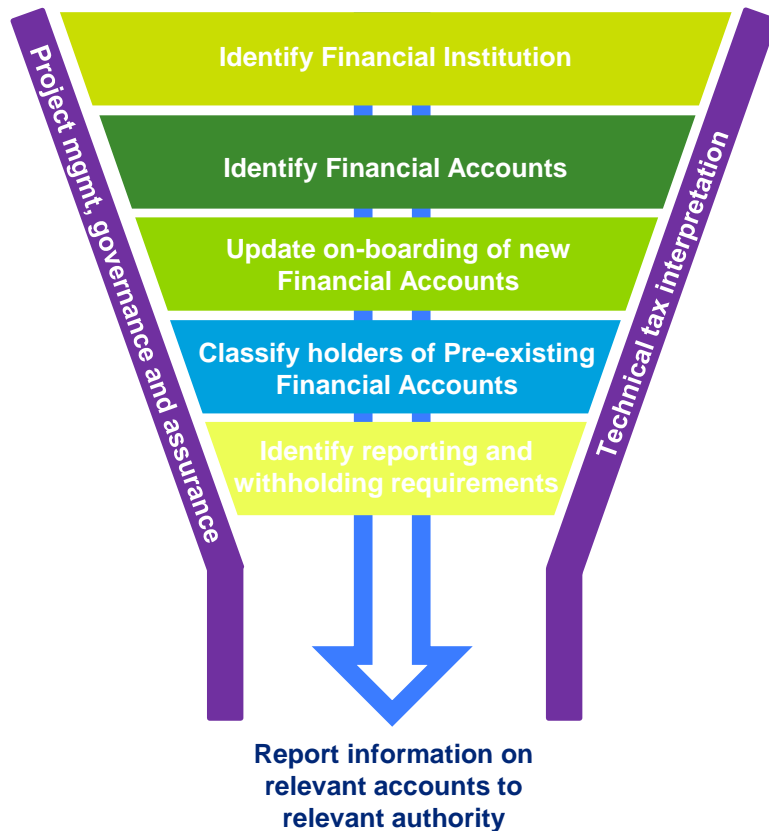


Key pillars for successful implementation of a FATCA programme



Achieving FATCA compliance

The FATCA Funnel methodology

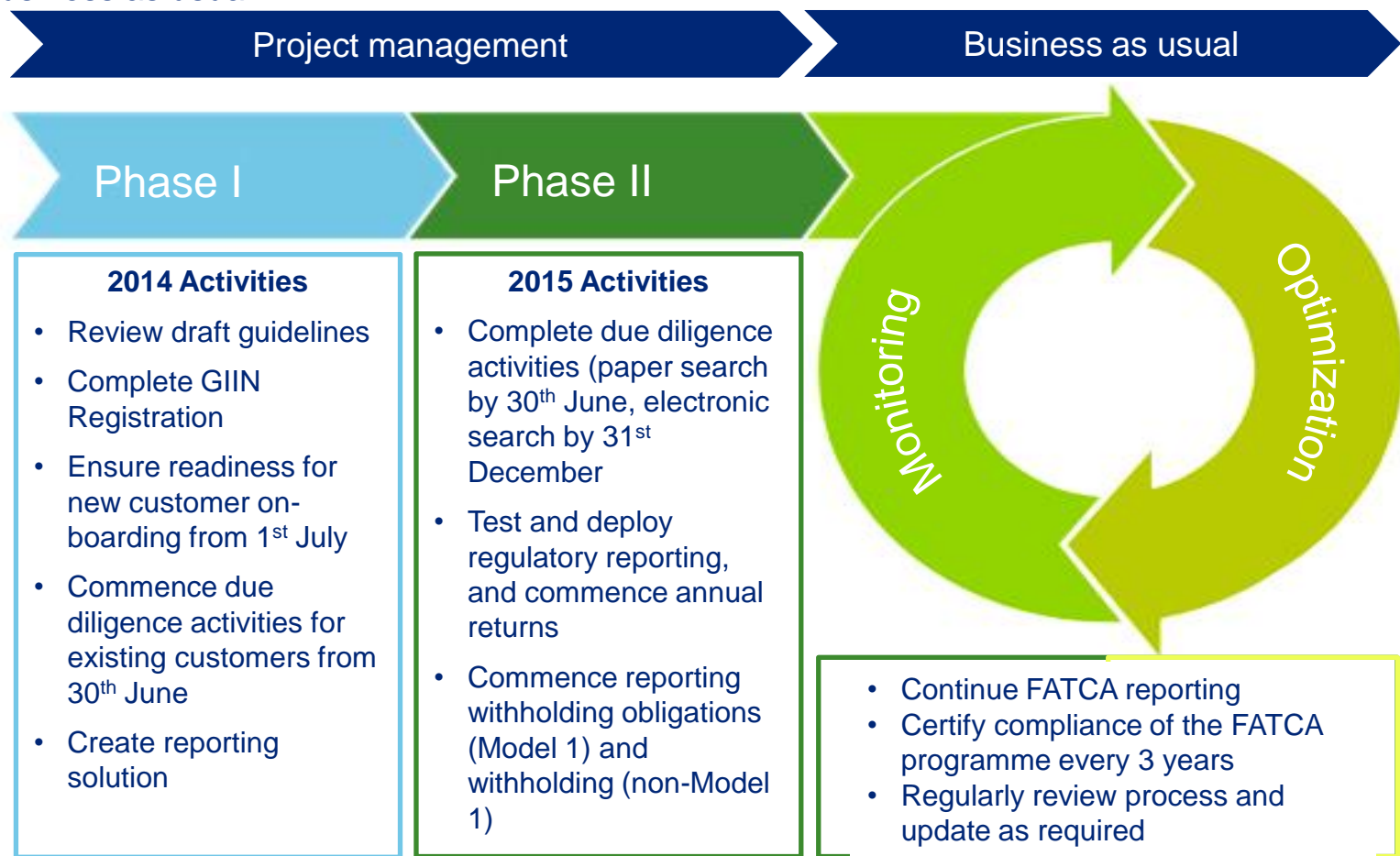


- The regulations can be complicated, especially where a group operates across a number of territories (including IGA and non-IGA jurisdictions).
- The diagram opposite shows a structured funnel approach, which breaks down the requirements into logical steps aligned with the FATCA obligations.
- It is intended to ensure that efforts are focused on those areas that are in-scope for FATCA and reach the ultimate reporting requirement in a streamlined manner.
- To ensure efficient delivery it is essential that a strong governance structure is agreed upon and implemented.

Achieving FATCA compliance

Programme Overview

- Below is an overview of a typical FATCA Programme as applied to a Fund manager. It is critical that the programme is well integrated to ensure that FATCA controls and processes are built into business as usual.



Implementation planning

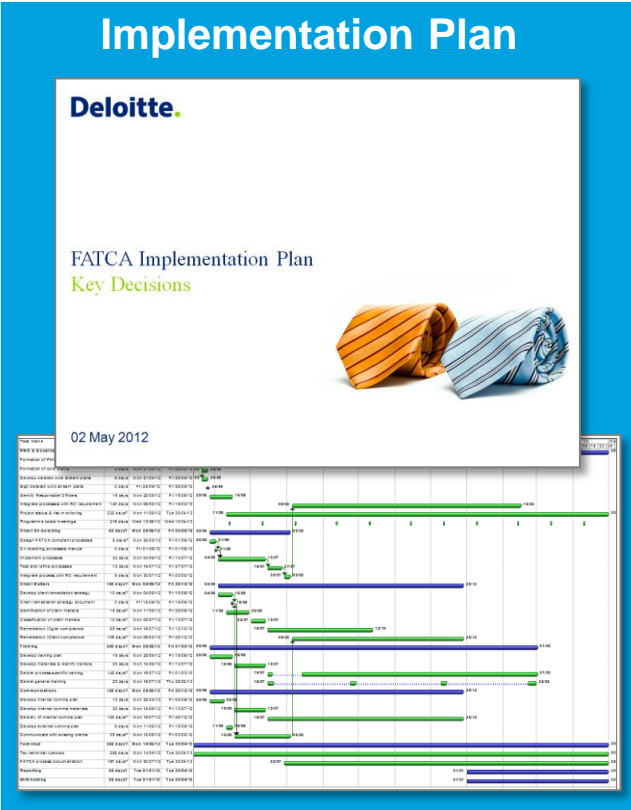
Overview

An Implementation should include the following:

Alignment to Strategy
 Consider the key strategic questions that need to be addressed at the outset of implementation

FATCA Work Streams
 Identify the key work streams and their timings

Resourcing Requirements
 Provide an indication of the resourcing requirements



Project Governance
 Consider the project governance structure for the implementation phase

Project Management
 Identify who is responsible for each work stream

Dependencies
 Identify interdependencies between work streams

Impact within operations infrastructure

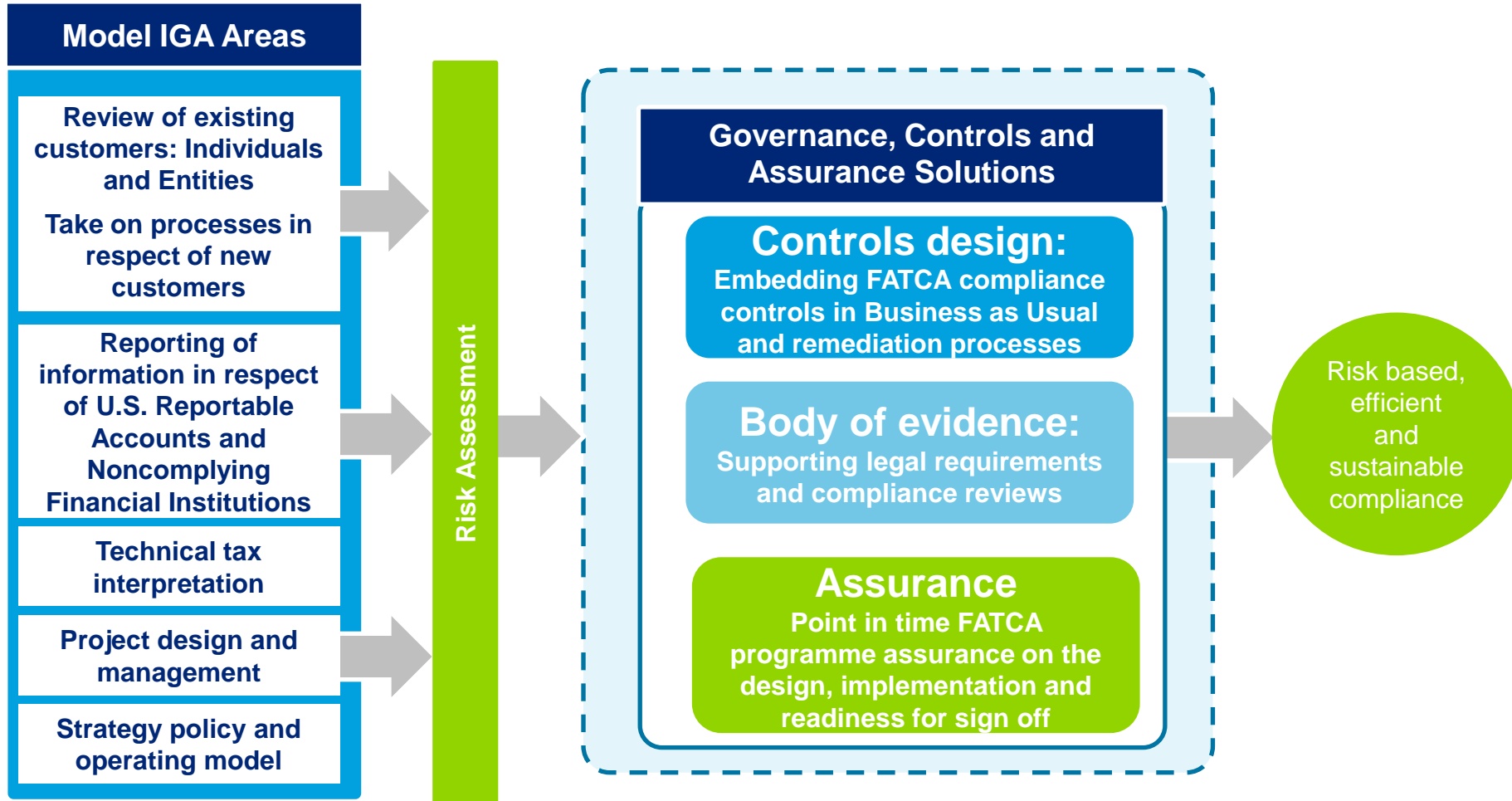
Key impacts and potential risks

Action Point	Key Impacts	Potential Risks	Key strategic decisions
Entity Classification	<ul style="list-style-type: none"> Gather entity information and determine appropriate classifications. Complete registration of FI entities 	<ul style="list-style-type: none"> Incorrect technical interpretation may lead to erroneous classifications Issues with registration or certification can result in potential reputational risk 	<ul style="list-style-type: none"> Who will be responsible for registration? How and when will this be completed?
Classification of Preexisting/Update on boarding of new Financial Accounts	<ul style="list-style-type: none"> FATCA compliant on boarding processes Develop technology solutions to support data remediation Maintain ongoing compliance 	<ul style="list-style-type: none"> Enhancements or upgrades necessary to support FATCA - requirements may not be fully implemented by compliance deadlines Non compliant processes 	<ul style="list-style-type: none"> Application of thresholds Identifying relationship managers Future proofing
Governance	<ul style="list-style-type: none"> Developing a governance framework and Body of Evidence Update legal documentation, draft compliance policies and develop ongoing governance programs 	<ul style="list-style-type: none"> Non-compliance with FATCA policies and procedures internally or by service providers HMRC audit of systems and processes 	<ul style="list-style-type: none"> Who is taking overall responsibility for FATCA compliance? Who will be responsible to update documents? How are you moving from implementation to BAU?
Identify Reporting Requirements	<ul style="list-style-type: none"> Regular reporting requirements to HMRC/Irish Revenue. Confirm reporting responsibility 	<ul style="list-style-type: none"> Errors in reporting can impact FATCA compliance 	<ul style="list-style-type: none"> Who will be responsible for reporting? Preparation for reporting milestones

Governance

Actions required for compliance

Companies will need to consider controls and a compliance audit trail to make it easier for relationship managers to understand their responsibilities (where they arise) and provide comfort that the law is being complied with.



Next Steps

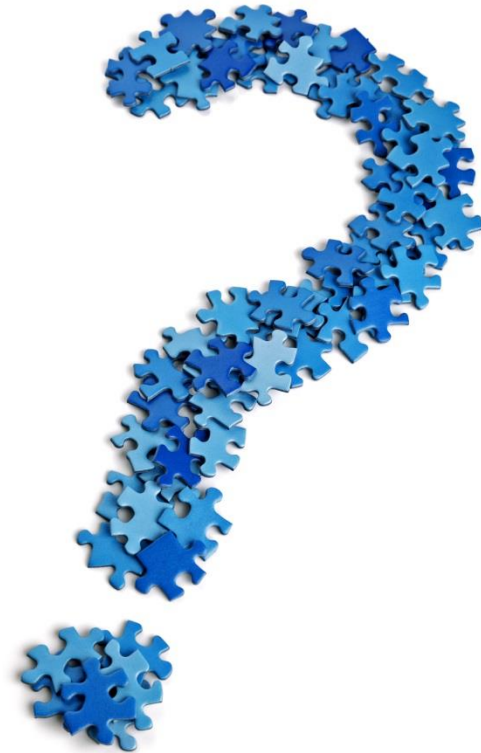
Priorities and challenges

- Finalise Entity classifications and agree an approach for the FFI registration process
- Agree timeline for implementation process
- Prioritises key activities which need to be done now or need to be started due to the length of time they will take to complete.
- Identify and agree responsibility within the company
- Design appropriate controls – to embed FATCA compliance controls in company processes
- Develop Body of Evidence – to support legal requirements and compliance reviews

Key risks

- There are both internal and external risks involved with enabling FATCA compliance.
- The internal risks are the most significant in the short-term, these include:
 - Meeting the resourcing requirements for delivering the programme which may be challenging, especially during intense periods.
 - Ensuring that the company has the FATCA technical knowledge required to interpret the requirements and provide an audit trail for key decisions.
- The external risks to the programme include further developments in relation to the implementation of the IGA.

Deloitte - how we can help?



Deloitte – how we can help?

Deloitte FATCA solutions

- FATCA e-learning modules
- Legal entity registration on IRS portal
- Onboarding process
- Remediation of existing accounts
- Governance and controls
- Programme assurance
- Project Management and Implementation

FATCA eLearning

Employee training

- Many FS institutions are currently looking at delivering some form of FATCA training for employees both for educational purposes and to act as an important control for ensuring staff comply with the FATCA requirements
- We have developed two FATCA eLearning modules which can be incorporated into clients learning management systems.

Awareness

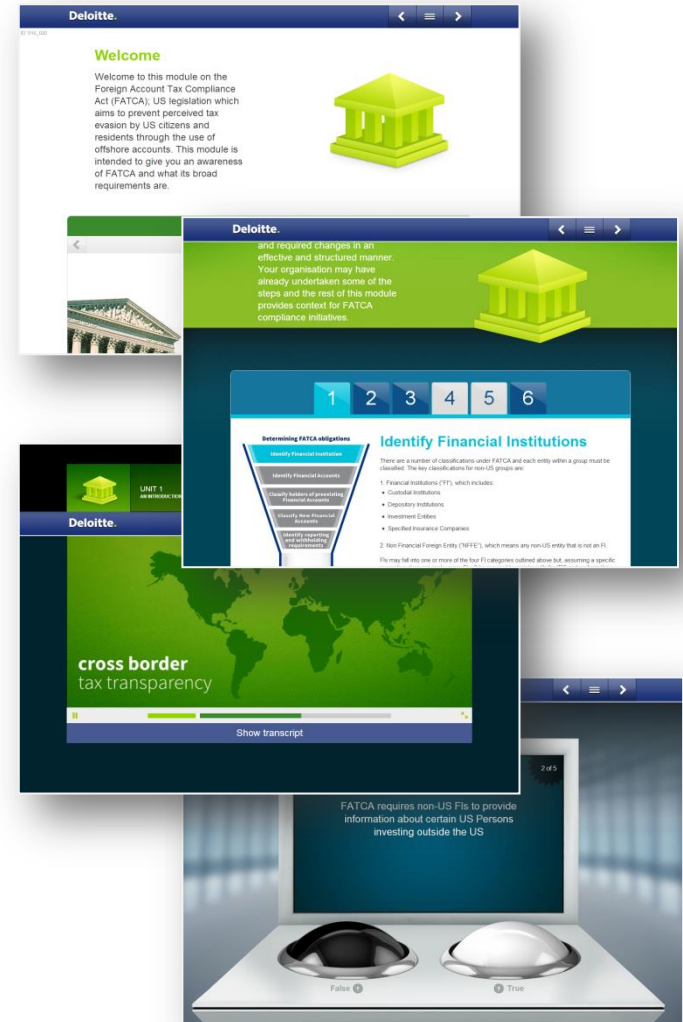
This module is intended to give you an awareness of FATCA and what its broad requirements are. Learners will become familiar with the core concepts of FATCA and the risks of non-compliance. The module is built around a structured funnel approach which guides learners through the FATCA requirements and introduces the key definitions and requirements.

The course takes approximately 20 minutes to complete.

Practitioner

This module is intended to provide an in-depth knowledge of the FATCA due diligence and reporting requirements. Learners will be introduced to the detailed requirements for identifying US persons holding preexisting and or opening new client accounts, as well as the associated reporting requirements. The content focuses on a number of worked examples which reinforce the detailed information provided.

The course takes approximately 40 minutes to complete.



Programme Assurance

Deloitte approach to FATCA programme reviews

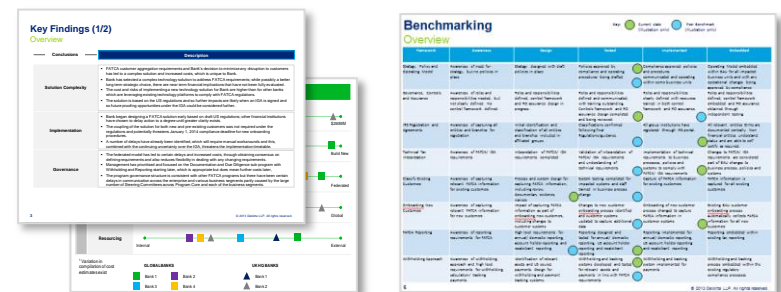
Requirement

Given the complexity of the FATCA requirements, global financial institutions may require an adviser to review their existing Group FATCA Programme in order to:

- Confirm if the FATCA requirements identified are complete;
- Assess whether the governance structure is sufficient;
- Identify whether the overall approach is appropriate to enable efficient compliance (considering inter-dependencies between areas/business divisions); and
- Compare and benchmark the programme against industry peers

Sample deliverables

Programme assessment, regulatory benchmarking, peer benchmarking and recommendations



Deloitte approach

Reviewing the proposed FATCA solution to provide assurance that it is appropriate to meet the FATCA compliance obligations

Considering the overall programme's governance structure, timetable for delivery and resourcing needs to determine whether they were suitable and reasonable

Benchmarking the FATCA programme's approach and solution to other comparable financial institutions organisations

Reviews can be completed through a number of key activities, including interviews with the programme key stakeholders, participation in FATCA Steering Committees, desktop reviews and comparison to industry best practices and benchmarks.

Our team/credentials

1. **Clear, considered approach:** We have a tried and tested approach developed through undertaking projects of this type that allows us to deliver a robust level of assurance for your programme.
2. **Experienced team:** We have assembled a core team that has the technical expertise, experience of FATCA engagements and deep industry knowledge required to provide you with comfort around your interpretation of the FATCA Regulations.
3. **Exceptional credentials:** We are working with a large number of institutions to advise on the practicalities of implementing FATCA. We have therefore undertaken a number of similar assurance projects and also have the knowledge to support a robust benchmarking exercise.

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