



FATCA FAQ for insurance industry

Contents

Overview

Are insurance companies still FFIs?	1
Which insurance products are within the scope of FATCA?	1
What about insurers that write both "cash value" and non-cash value insurance products?	2

Remediation and KYC

Are there any insurance specific rules for review of the back book?	2
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Other issues

Have other problems been addressed?	2
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Overview

Are insurance companies still FFIs?

Insurance companies that write "cash value insurance contracts" or annuities are considered FFIs.

Which insurance products are within the scope of FATCA?

Only "cash value insurance contracts" and annuities are within FATCA. The intention is to catch "savings" rather than risk products.

Cash value is defined as the amount that the policyholder can receive upon surrender or termination. It excludes payments made regarding personal injury and sickness benefits. It also excludes payments for insured risks and refunds of premiums (other than life policies) due to cancellation, price adjustment, etc.

Term life products are also out of scope. This is intended to carve out life protection.

What about insurers that write both "cash value" and non-cash value insurance products?

Insurers that write a mixture of business will be FFIs but will only have to monitor and report on the cash-value products within the scope of FATCA.

Remediation and KYC

Are there any insurance specific rules for review of the back book?

Yes. Insurance companies only need to review existing cash value insurance products where the aggregate value of the account is greater than 250,000 \$ (50,000 \$ for non-insurance financial accounts).

Other issues

Have other problems been addressed?

Under an FFI agreement, you still must agree to close accounts where data privacy prevents reporting and customer won't give a valid waiver. However, unilateral account closure would be a breach of regulatory law in many jurisdictions.

Deferral of the start of withholding on foreign passthru payments does not alter the fact that current foreign passthru regime is unworkable for insurance.

Policy valuation and reporting of income and gross proceeds are still concepts which do not easily translate from banking to insurance for many products.

Insurers cannot be a local FFI.