

FATCA: Time to Act
Preparing for the new
tax information exchange
mechanism in the Russian
financial sector



The requirements of FATCA will apply to all financial institutions in the Russian Federation, including the branches and subsidiaries of foreign entities operating on Russian territory.

What is FATCA?

The Foreign Account Tax Compliance Act (FATCA), part of U.S. legislation, is aimed at preventing tax avoidance by U.S. citizens and residents through the application of international financial tools. FATCA establishes requirements for financial institutions around the world to identify the financial accounts of American taxpayers and provide information on them to the U.S. tax authorities.

If a financial institution fails to submit the required information, then certain types of the income of that financial institution will be subject to a 30% withholding tax.

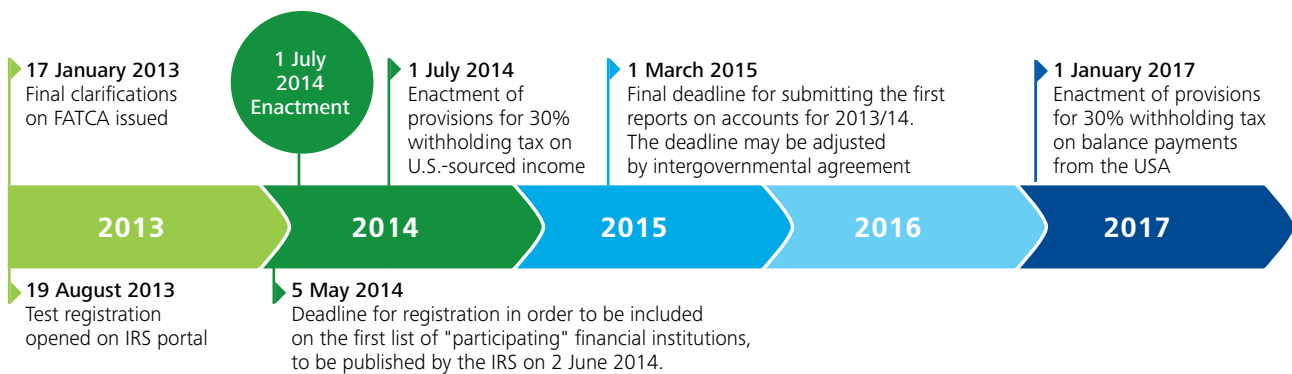
FATCA for Russian Banks

Russia is planning to conclude an intergovernmental agreement on the application of FATCA. This agreement has been drafted based on a Model Intergovernmental Agreement, published in July 2012. The agreement contains general provisions regulating the process for Russian financial institutions to collect information on American taxpayers' accounts and provide that information to the U.S. Internal Revenue Service (IRS). The template agreement covers issues of personal data protection, introduces a number of new requirements and several amendments to the previous obligations of financial institutions (for example, it lifts the withholding tax requirement for Russian financial institutions).

What steps need to be taken now?

FATCA will affect all Russian financial institutions. In order to comply with its requirements, financial institutions must take a number of key steps, a preliminary list of which is provided below. In general, the requirements of FATCA concern the analysis of new and existing client accounts in order to identify American taxpayers among clients and provide information on them.

- **Register with the IRS:** Russian financial institutions must register on the IRS Portal for inclusion on the list of "participating" financial institutions. The IRS has published its instructions for registration, which can be found by following the link: <http://www.irs.gov/Businesses/Corporations/FATCA-Registration>. To be included in the initial list, financial institutions must complete their registration by 26 April 2014.
- **Classify subsidiaries:** The branches and subsidiaries of financial institutions must also define their status in accordance with FATCA. If they are themselves classified as financial institutions, some of the requirements of FATCA will apply to them.
- **Identify existing accounts:** Russian financial institutions will be obligated to analyse their products in order to identify the accounts of clients affected by FATCA and classify them in accordance with the requirements of FATCA.



- **Analyse existing accounts:** After identifying accounts that are subject to analysis, financial institutions must collect all necessary electronic information to classify those accounts in compliance with the requirements of FATCA. For individual accounts, financial institutions must determine whether the account holder is a U.S. resident (e.g. green card holder) or citizen, or whether they have signs of affiliation with the USA (e.g. a U.S. telephone number or postal address). Financial institutions must also qualify the individual account holders in accordance with the requirements of FATCA. In any case, additional information may be required to confirm the selected classification. If a legal entity is classified as a passive non-financial entity, information on the primary American owners of that legal entity may also be required.

- **Perform a detailed review of existing accounts:** For large accounts (e.g. over USD 1 million), a review of paper documentation and a consultation with the manager responsible for servicing the account may be performed for the purposes of providing additional confirmation of the relationship of the account to the USA.

- **Review information used to identify clients and address money laundering within the classification of new accounts:** In the future, Russian financial institutions will be obligated to analyse information, received during their work with the client in order to determine the account holder's classification.
- **Present information on accounts:** After classifying the accounts, financial institutions will be obligated to regularly present information (e.g. name of account holder, taxpayer identification number (INN), account balance) to the Russian tax authorities for further transfer to the IRS.

Next steps

We have a proven approach for providing support to financial institutions in the development of measures for the implementation of the requirements of FATCA. Our team has directly participated in the implementation of such projects in the Russian Federation. We will be delighted to answer any questions you may have regarding the understanding of the key requirements of FATCA.

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