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by Denise Hintzke

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In this article, the author looks back over the first year of the implementation of the U.S. Foreign Account Tax Compliance Act and discusses the various obstacles and benefits the law can present for foreign financial institutions.

July 1 marked the first anniversary for foreign financial institutions having to comply with the U.S. Foreign Account Tax Compliance Act, the law targeting tax noncompliance by U.S. taxpayers with foreign accounts. While FATCA has been an effective tool over the past year for compliance with the IRS's financial reporting requirements, challenges associated with FATCA adoption and compliance still exist.

A top challenge that foreign jurisdictions and FFIs face is meeting FATCA implementation deadlines. The past few months alone have been a watershed in reporting deadlines related to the 2015 FATCA filing season. For instance, in May and June, a bevy of countries with FATCA intergovernmental agreements faced reporting deadlines. FFIs not under a FATCA IGA, or otherwise exempted, were given an automatic extension this year and needed to provide the IRS with information on accounts held by U.S. taxpayers by June 28.

The reporting ramp-up represents a new phase in FATCA's rollout. Since FATCA's enactment in 2010, FFIs have worked to document accounts, develop onboarding procedures, build withholding capabilities, establish a compliance program, and prepare for reporting. Now it is time for the data to actually begin flowing to the IRS, and it is likely that many institutions are not prepared to deliver that information. Moreover, FATCA reporting requirements will continue to grow beyond 2015, as the remediation of preexisting accounts is completed.

At the same time, governments and FFIs face another challenge on this first anniversary of FATCA compliance: The OECD has established the common reporting standard (CRS) for exchange of financial account information between global jurisdictions. Implementation of that standard, while varying from country to country, will increase the focus on account opening and client identification procedures globally, and the amount of reporting will grow exponentially.

Together, the FATCA provisions and OECD standards represent significant new requirements for global data collection and information reporting. Those requirements will compel financial institutions to establish processes that both protect their clients' interests and meet government mandates.

Despite those challenges, there may be opportunities. The requirements might allow financial institutions to look beyond simply meeting the next deadline and instead seek to leverage compliance efforts and investments for meeting the requirements, while capitalizing on valuable information gathered in the process. A clearer understanding of the issues and opportunities may help financial institutions chart their path to compliance and serve their clients better.

A Closer Look at Reporting Challenges

The difficult balance that FFIs try to achieve with FATCA compliance is to provide authorities with the information they require while protecting client privacy. Information accuracy is paramount in meeting both requirements. For example, an FFI that mistakenly identifies an account holder as a U.S. taxpayer or that provides the IRS with incorrect financial data could face both business and compliance consequences.

Accurate reporting hinges on a detailed understanding of the institution's customers, a very real challenge for many financial institutions. Client information often resides on multiple IT systems, with name and address in one place and information on various accounts scattered elsewhere.

Another issue is that some foreign governments are themselves behind in FATCA implementation. Many countries have entered into Model 1 IGAs requiring that the country itself issue detailed FATCA regulations and guidance and that FFIs convey FATCA-related information to their own governmental agencies. Those agencies in turn will begin transmitting that information to the IRS starting September 30. Each country is in a position to interpret the FATCA rules within its own jurisdiction and can add its own specific requirements on top of the FATCA provisions. From country to country, those requirements may vary a little or a lot, potentially creating dozens of versions globally.

The OECD's CRS adds even more reporting requirements and complexity. In addition to identifying U.S. accounts that must be reported under FATCA, FFIs will also need to report accounts in countries that have agreed to the CRS. As with FATCA, implementation of CRS provisions will vary among countries. Each country that agrees to adopt the standard will enact it locally, with the option to modify what must be reported, how accounts are identified, and other factors. As with FATCA, compliance requirements can technically differ from country to country, even if only slightly. Ultimately, implementation of CRS could make every customer's account reportable.

New Opportunities, Helpful Steps

Beyond financial reporting requirements, the substantial data collection required by FATCA and the emerging OECD standard may offer important benefits for forward-looking FFIs. The information can provide FFIs a better understanding of who their clients are, the products they use, and new products in which they might be interested.

Some organizations may see the requirements as a catalyst for system consolidation. FFIs, particularly those that have grown through acquisitions, might have numerous systems housing client information, an environment possibly ready for technology streamlining. Data about a single client that might reside on multiple systems could be brought together to provide new insights for enhancing client services and experience. Those insights might even help identify clients with difficulties.

FATCA may also create opportunities for service providers. FFIs might want to work with a service provider to fulfill their FATCA and CRS requirements. Tapping the resources of a service provider focused on the emerging requirements might help an FFI avoid having to build internal infrastructure, while allowing it to access leading implementation practices. Areas in which that approach could be beneficial include documentation and validation to confirm the consistency and accuracy of account information. Also, assistance with the actual reporting process could prove helpful, including normalizing data so that information is consistent and readable across jurisdictions, organizing the data for specific data points required for tax forms, and handling report filing.

Conclusion

FATCA reporting is here to stay. Along with imposing new, real demands on businesses and individuals, FATCA serves as a harbinger of similar dictates by other governments. Financial institutions that leverage FATCA compliance efforts to address the continuing expansion of reporting requirements around the globe, as well as use the data gathered for reporting to increase customer knowledge, may be able to both meet regulatory requirements and strengthen their market position. ◆