CFO Journal.
FROM THE WALL STREET JOURNAL
Deloitte.

Originally Published August 12, 2014, 12:01 AM ET

FATCA Deadline Leaves Uncertainty in Its Wake: CFO Survey

Prior to the Foreign Account Tax Compliance Act (FATCA) going into effect on July 1, 2014, about one-third (37%) of finance chiefs said they had taken (or were in the process of taking) the most basic step—determining the FATCA classification for each of their entities, according to Deloitte's Q2 2014 *CFO Signals*™ survey. Moreover, fewer had taken additional steps, such as determining implications for non-U.S. employee benefits and putting processes in place to make necessary withholdings to meet the compliance deadline. The survey tracks the thinking and actions of more than 110 CFOs from large North American companies.

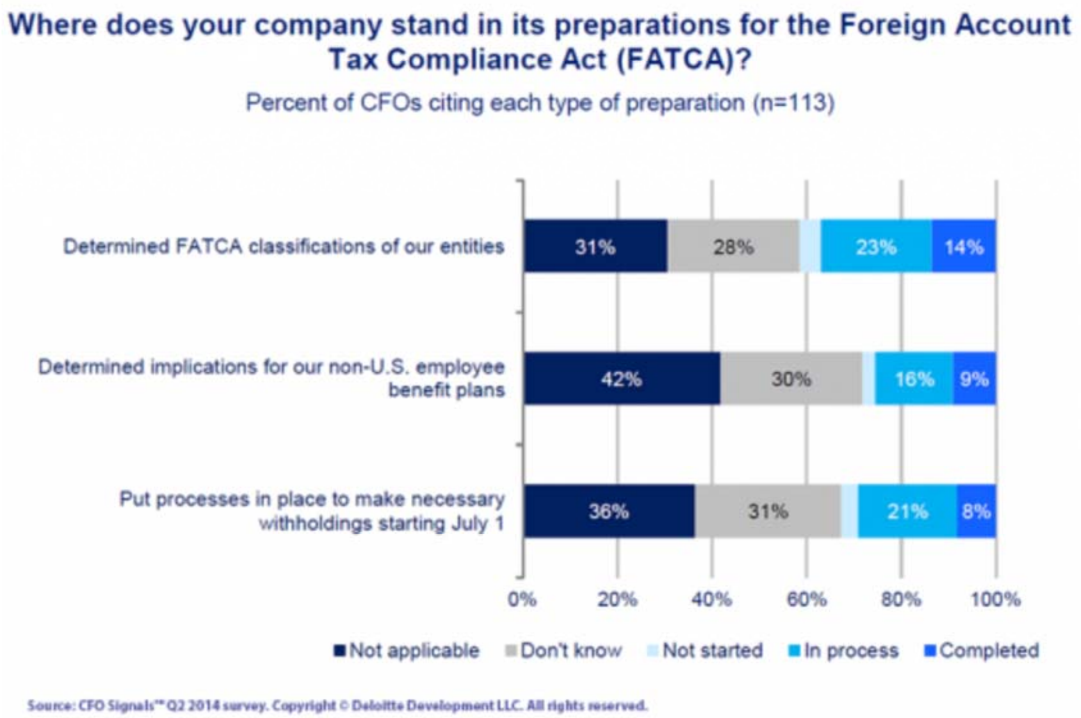
FATCA, passed in 2010, is designed to prevent U.S. persons from using foreign accounts to avoid disclosing income to the Internal Revenue Service, and its central requirement is for non-U.S. financial institutions to report specified U.S. account holders to U.S. tax authorities. The law also has compliance implications for many multinationals that must confirm whether they have foreign financial institutions within their expanded affiliated group and for the non-U.S. employee benefit plans they establish for their non-U.S. staff.


Carl Allegretti

"FATCA is a prime example of the complex tax environment in which today's CFOs operate, where U.S. tax law impacts an organization's global financial operations," says Carl Allegretti, chairman and chief executive officer of Deloitte Tax LLP. "To mitigate the risks of noncompliance, CFOs and their tax departments should consider developing an actionable plan that incorporates the processes and technology needed to address FATCA's extensive data and reporting requirements."

The Q2 survey also points out that among the CFOs who indicated their companies are subject to FATCA there is still work to do with respect to preparation and implementation. Only 8% of these CFOs reported that they had processes in place to make the necessary withholdings as of July 1, 2014, and just 9% said that their companies have figured out how FATCA affects their non-U.S. employee plans. Overall, 14% had completed the classification effort, while 23% reported that the process is underway.

Well over half of the surveyed CFOs either did not believe FATCA regulations apply to their company or were not sure where there company stands with regard to the law.



"FATCA was enacted with the intent of compelling greater compliance from U.S. taxpayers with offshore assets, but it has had a ripple effect reaching beyond the financial services industry," says Denise Hintzke, director, Deloitte Tax LLP, and global tax leader, Foreign Account Tax Compliance Initiative. "It is likely that the updates to FATCA's information reporting and withholding rules will have impacts on all financial and nonfinancial industries and that the modification to existing law will require adjustment of existing processes for all U.S. payors," adds Ms. Hintzke.

Following are industry-related findings from the Q2 survey:

—Most progress made classifying entities: Financial Services CFOs were more likely than others to have completed classification efforts (41%), while technology CFOs were more likely to have it in process (43%).

—Little progress made on determining benefit plan implications: Financial Services CFOs were again more likely to have figured out how FATCA affects their non-U.S. employee plans, with 23% completing this task. Meanwhile, more than 40% of CFOs from the Manufacturing, Technology and Services sectors were unsure where there companies' stand regarding benefit plan implications.

—Few processes in place to meet the deadline: 21% of CFOs were in the process of instituting procedures to make the necessary withholdings as of July 1—at least 15% in each industry. Not surprisingly, Financial Services CFOs were more likely to have had this task completed than others (18%).

Denise Hintzke

"An effective FATCA compliance program combines efforts to mitigate operational risk, manage the reputational risk of being non-compliant and mitigate the financial risk of paying penalties," says Ms. Hintzke.

"Those compliance and risk management efforts are closely tied to accurate reporting, effective technology and oversight to determine if classifications are being done correctly."

While the regulations bring welcome relief and closure in some respects, open questions remain, as many of the temporary rules are subject to change.

"FATCA continues to evolve and will continue to change over the next several years," notes Mr. Allegretti, "requiring CFOs and tax directors whose companies are affected by the regulation to pay close attention to new developments. This will include the likely enactment of similar reporting requirements by other governments."

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