

IRS Publishes Final Form 8966, “FATCA Report”

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Global Financial Services Industry



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On March 6, 2014, the IRS published the final Form 8966, “FATCA Report”. Foreign Financial Institutions (FFIs) required to perform FATCA reporting will use the Form 8966 to report U.S. financial accounts, financial accounts held by passive non-financial foreign entities (NFFEs) with substantial U.S. owners and financial accounts held by owner-documented FFIs with specified U.S. owners. U.S. withholding agents will also have limited Form 8966 reporting to the extent they make withholdable payments to passive NFFEs with substantial U.S. owners or owner-documented FFIs with specified U.S. owners. The Form will also be used to report pooled information for dormant accounts, recalcitrant account holders and nonparticipating FFIs.

The information on the Form must be transmitted electronically to the IRS using an International Data Exchange Service, which is currently under development.

The only significant but expected change to the Form from its previously released draft, was the addition of the Direct Reporting NFFE account holder/payee category on line 5 of part II.. Direct Reporting NFFEs are passive NFFEs with substantial U.S. owners that elect to register with the IRS for a global intermediary identification number (GIIN) and provide information regarding their substantial U.S. owners directly to the IRS in lieu of providing the information to their withholding agents. Withholding agents (including FFIs and U.S. withholding agents) will treat the Direct Reporting NFFE as an excepted NFFE if a valid certification and GIIN is provided.

Other minor changes to the Form include the addition of check boxes indicating that the Form is an amended report or a voided report. Also, boxes for a currency code will be used to indicate the currency in which amounts are being reported.

Unfortunately, instructions to the final Form 8966 have not yet been published. Although instructions will be necessary to confirm that reporting institutions are correctly interpreting the requirements from the Form, the final Form 8966 at least provides some guidance for developing their reporting requirements. The final Form 8966 is attached. .

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