

A. FATCA Overview

1. What is the Foreign Account Tax Compliance Act (FATCA)?

FATCA is a US law which requires all financial institutions (FIs) outside of the US (also known as Foreign Financial Institutions, or FFIs) to regularly submit information on financial accounts held by US persons to the US Internal Revenue Service (US IRS). The US' intent of FATCA is to deter and detect US tax evasion through the use of foreign financial accounts. Failure to comply with the reporting obligations under FATCA will result in the US Government imposing a 30% withholding tax on certain gross payments made from the US to non-compliant FFIs. More information on FATCA can be found on the [IRS FATCA webpage](#).

Updated: 12 Nov 2015

2. Who is affected by FATCA?

The reporting obligations under FATCA primarily affect FFIs, which can include banks, insurance companies, investment managers and custodians.

Under US FATCA Regulations, a FFI refers to any non-US entity that:

- (a) Accepts deposits in the ordinary course of a banking or similar business;
- (b) As a substantial portion of its business, holds financial assets for the account of others;
- (c) Conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
 - (i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc); foreign currency; foreign exchange, interest rate and index instruments; transferable securities; or commodity futures;
 - (ii) individual or collective portfolio management; or
 - (iii) otherwise investing, administering, or managing funds, money or financial assets on behalf of other persons; or
- (d) Is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

3. Who is considered as a US Person?

For the purpose of FATCA, a US Person means:

- (a) A citizen or lawful permanent resident (including US green card holder) of the US; or
- (b) A partnership or corporation organised in the US or under the laws of the US or any State thereof, or a trust if: (i) a court within the US would have authority under the applicable law to render orders or judgments concerning substantially all issues regarding the administration of the trust; and (ii) one or more US persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the US.

The definitions above are to be interpreted in accordance with the provisions of the US Internal Revenue Code.

Updated: 06 Feb 2015

4. Why is Singapore entering into a FATCA Intergovernmental Agreement (IGA) with the US?

In response to industry feedback, Singapore agreed to enter into a FATCA IGA with the US to help Singapore-based FIs (SGFIs) manage their FATCA compliance burden. Without the FATCA IGA, individual FIs outside the US will have to enter into individual FFI agreements with the US to avoid FATCA-related withholding tax. With the IGA, SGFIs will benefit from simplified compliance procedures with regard to identifying and reporting on financial accounts held by US persons. SGFIs will also avoid FATCA-related withholding tax on relevant payments that they receive from the US.

5. What are Singapore-based FIs (SGFIs)?

A Singapore-based FI (SGFI), for the purpose of FATCA, is a FI which is:

- (a) Tax resident in or organised under the laws of Singapore, but excluding any branch of such FI that is located outside Singapore; or
- (b) Any branch of a FI not tax resident in or organised under the laws of Singapore, if such branch is located in Singapore.

6. What are the FATCA obligations applicable to a SGFI?

SGFIs will need to perform due diligence checks to identify financial accounts held by US persons. Thereafter, the SGFIs will need to report information pertaining to such accounts to IRAS, which will in turn transmit the information to the US IRS.

7. What is a FATCA Model 1 IGA? What is a FATCA Model 2 IGA?

The US has developed two Model IGAs to simplify and overcome legal issues relating to the implementation of FATCA. Model 1 establishes a framework for FIs outside the US to report account information of US persons to the relevant domestic authority (IRAS in Singapore's case) which in turn provides the information to the US IRS. Model 2 establishes a framework for FIs outside the US to directly report account information of

US persons to the US IRS, which is supplemented by information exchange upon request between the US IRS and its relevant government counterpart.

8. Does my organisation need to register with the US IRS for FATCA?

All SGFIs must register with the US IRS, unless they are exempt (refer to FAQ #A.10 below). SGFIs that require advice on their FATCA obligations should seek professional tax/legal advice.

Added: 06 Feb 2015

9. Which are the SGFIs that are exempt from FATCA?

Annex II to the Singapore-US IGA lists the Non-Reporting SGFIs that are treated as Exempt Beneficial Owners (which are exempt from FATCA obligations) or Deemed-Compliant FFIs (which have reduced compliance obligations under FATCA). Please seek professional tax/legal advice if you are unclear whether you qualify for exemption under Annex II.

Added: 06 Feb 2015

B. Identification and Reporting Obligations

1. A pre-existing individual customer, with no US indicia identified as of 31 July 2014 after the account was reviewed by a Reporting SGFI, changed his address to a US address on 15 December 2014. Should the account be reported to IRAS in Year 2015?

Given that the account has already been reviewed by the Reporting SGFI as of 31 July 2014, the change to a US address on 15 December 2014 will be regarded as a change in circumstances which results in an US indicia being associated with the account. The account shall be treated as a US Reportable Account and reported to IRAS in Year 2015 unless the Reporting SGFI obtains documentary evidence establishing the account holder's non-US status.

Added: 06 Feb 2015

2. Should all accounts that are held by sole-proprietors be treated as Individual Accounts?

A sole-proprietorship is a business owned by an individual or a company. For FATCA, only accounts held by sole-proprietorships that are owned by individuals should be treated as individual accounts.

Added: 11 Aug 2015

3. Can a new account which is opened and closed within a short time span (e.g. 14 days) be exempt from FATCA reporting?

No, there is no exclusion from FATCA reporting based on the duration an account is opened.

Added: 06 Feb 2015

4. How should a Reporting SGFI report a pre-existing account that is a US Reportable Account if the FI is unable to obtain and report the US Taxpayer Identification Number (“TIN”) of the Account Holder and/or Controlling Person of the pre-existing account for Reporting Year 2017?

The Singapore-US IGA (“the IGA”) and the Income Tax (international Tax Compliance Agreements) (United States of America) Regulations (“FATCA Regulations”) require Reporting SGFIs to obtain and report the US TINs of US Persons that are Account Holders and Controlling Persons of US Reportable Accounts. In the case of a pre-existing account, a Reporting SGFI is not required to report the US TINs of the US Persons if such US TINs are not in the records for Reporting Years 2014 to 2016. However, starting from Reporting Year 2017, it is mandatory to report the US TINs of US Persons and a Reporting SGFI which fails to report the required US TINs would be considered to be non-compliant with the requirements of to the IGA and the FATCA Regulations.

The Revised Guidance Related to Obtaining and Reporting Taxpayer Identification Numbers and Dates of Birth by Financial Institutions (“Notice 2017-46”), issued by the US Internal Revenue Service (“US IRS”) on 25 September 2017, provides that a Reporting SGFI that fails to obtain and report each required US TIN with respect to reporting of pre-existing accounts that are US Reportable Accounts for Years 2017, 2018 and 2019 will not be regarded by the US IRS to be in significant non-compliance with the obligations under the IGA if the Reporting SGFI:

1. Obtains and reports the date of birth of each account holder and controlling person whose US TIN is not reported;
2. Requests annually from each account holder any missing required US TIN; and
3. Before reporting information that relates to Calendar Year 2017 to IRAS, searches electronically searchable data maintained by the Reporting SGFI for any missing required US TINs.

Where the Reporting SGFIs maintain pre-existing accounts that are US Reporting Accounts without the required US TIN of US Persons, and the Reporting SGFIs fulfil the 3 conditions stated above, please insert a string of 9 consecutive “A”s (i.e. “AAAAAAAAA”) in the TIN field for each relevant Account Holder and/or Controlling Person whose US TIN is not available when reporting such accounts to IRAS for Reporting Years 2017 to 2019.

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