

# FATCA for Investment Managers

## Foreign Account Tax Compliance Act

### What is it?

FATCA is a set of provisions incorporated within the Hiring Incentives to Restore Employment (HIRE) Act, which was signed into law in March 2010.

The purpose of the Act is to ensure the Internal Revenue Service (IRS) can identify and collect the appropriate tax from US persons holding financial assets outside the US.

This is likely to have a major impact on almost all financial firms that accept deposits, hold financial assets for the account of others or are engaged in investing or trading securities, including the way they perform their daily operational functions.

Regulations have yet to be finalised. However, the draft format is expected in the winter of 2011, with final regulations due in the summer of 2012 and necessary agreements needing to be signed by 30 June 2013. FATCA withholding will then be levied on US dividends and interest as of 1 January 2014 and all withholding payments and gross proceeds as of 1 January 2015.

### How will it impact you?

FATCA will place a significantly increased burden on any non-US Foreign Financial Institution (FFI) and certain Non Financial Foreign Entities (NFFE) who must identify, document and report on US persons. FFIs will certainly include investment managers as they hold both "financial assets for the account of others" and invest/trade in securities.

Any non-participating FFIs or non-compliant ('recalcitrant') account holders will have a 30% withholding tax applied on US source payments, known as 'withholdable payments'. These include:

- interest, dividends and other determinable periodic payments from US assets
- gross proceeds on the disposal of assets of a type that can produce interest or dividends from a US source
- deposit interest paid by US and foreign branches of US banks.

### Key challenges faced by investment managers

Investment managers need to ensure that their legal entity's FATCA classification is correctly identified and that they are fully aware of the entity associated implications and obligations. Further detail is expected on regulations for collective investment structures, in particular funds of funds and umbrella funds.

The FATCA regulations are far reaching and post 1 January 2014, affected companies will need to be IRS compliant in providing reportable information and evidence of FATCA compliance on withholding and controls. Participating FFIs must enter into FFI agreements by 30 June 2013 to avoid penal 30% withholding.

The requirements to identify and document customers will become considerably more demanding with the burden of proof residing with the investment managers themselves. Ultimately, the regulatory requirements will impact:

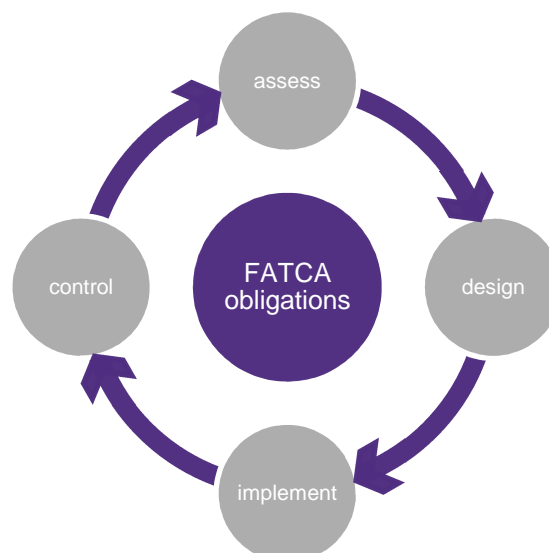
- know your customer (KYC)
- account and asset valuation (including derivatives and off balance sheet events)
- withholding tax processing
- transaction processing systems and reporting

The challenges arising from these regulations will need to be addressed by the investment managers' key functions, including compliance, accounting, legal, tax and operations.

These business functions will need to assess, design and implement plans to mitigate risks and ensure on-going controls are in place to maintain FATCA compliance.

Managers must also engage with their service providers to ensure existing service agreements are updated to reflect compliance with additional FATCA requirements.

Furthermore, these relationships will need to be reviewed and decisions made on where withholding, reporting and documentation responsibilities lie.



## Qualified Intermediary ('QI') regime

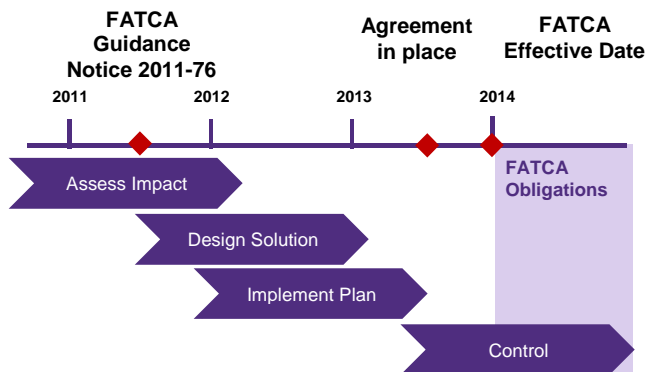
For those investment managers who were not previously QIs, FATCA is likely to mean the development and implementation of a US withholding and reporting system to interact with current transaction and account management systems.

For those who are QIs, consideration will need to be given to the effect of the differences between 'Chapter 3' and 'Chapter 4' of the Code reporting before developing a combined QI/FATCA reporting and withholding system.

## FATCA timeline

The effective date is 1 January 2014 and is fast approaching. Complete FATCA implementation could take longer than is anticipated and will need to be completed no later than Q1 2013 to facilitate having an FFI agreement in place before the deadline.

The time to complete such an implementation will depend on a number of factors, including global business functions and profiles.



## How can Grant Thornton help?

The clock is ticking and with FATCA rapidly approaching, there is potentially much work to be done to ensure compliance.

Grant Thornton can help meet your FATCA obligations by collaborating with you through any or all of the FATCA implementation stages:

### Assess

- Provide technical analysis and business impact advice
- Capability analysis using our developed FATCA analysis tools
- Assess ability to merge qualified intermediary and FATCA operations, co-ordinate reporting and withholding requirements
- Level of KYC and other client onboarding processes relative to FATCA requirements

### Design

- Mapping affected processes by function and business line
- Define required changes and their impact
- Develop change mechanisms (systems / training / communications / processes / clients)

### Implement

- Incorporate FATCA requirements into existing KYC and anti-money laundering procedures
- Implement change mechanisms

### Control

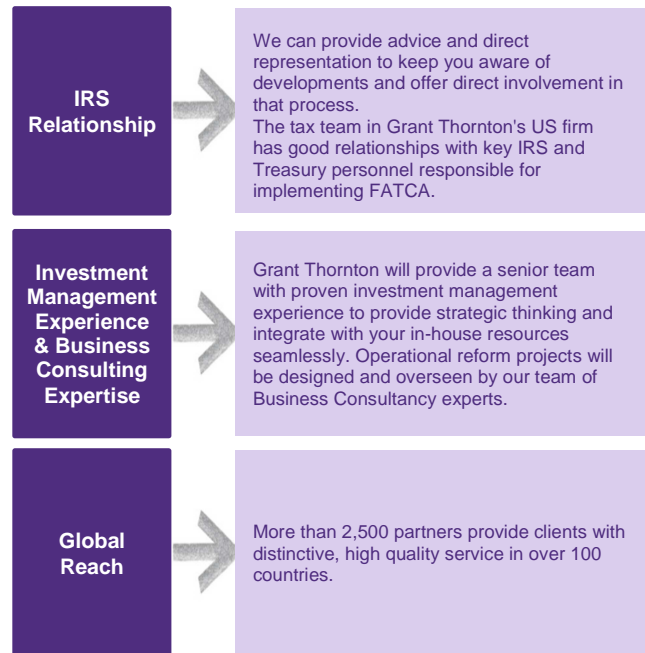
- FATCA compliance verification
- Test complete QI/FATCA withholding and reporting process

## Why Grant Thornton?

At Grant Thornton, we are committed to building long-term partnerships with our clients. Through close collaboration, our approach is designed to ensure we establish strong working relationships and exceed your expectations with the quality of our deliverables.

Our technical FATCA team work alongside our Business Consulting capability who have great experience in the operational side of financial institutions and work with global clients to implement regulatory, operational and strategic changes.

Our distinctive service offering is reflected through our:



To find out more about Grant Thornton's FATCA services, contact us on [FATCA@uk.gt.com](mailto:FATCA@uk.gt.com) or visit our website.

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