

FATCA for Insurance Companies

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.

FATCA will 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. FATCA defines such organisations as Foreign Financial Institutions (FFIs).

Regulations have yet to be finalised. However, the draft format is expected in the autumn of 2011, with final regulations due in the summer of 2012. FATCA withholding was to commence on 1 January 2013; however, on 14 July 2011, the IRS issued a Notice phasing the introduction of FATCA with reporting requirements generally beginning in 2014.

How will it impact insurers?

Depending on the nature of their businesses and products, UK insurance companies may be classified as FFIs or Non-Financial Foreign Entities (NFFEs) under FATCA.

The consultation recognises that companies offering only products which do not have cash values should not be within the remit of FATCA. Depending on the outcome of lobbying by the industry, such companies will be classified as NFFEs and will not be required to enter into an agreement with the IRS (although they will have to comply with the rules applicable to NFFEs).

Products which carry cash values and annuity contracts which typically combine insurance protection with investment business have been identified as carrying a potential risk of US tax evasion which FATCA is designed to prevent. Insurers offering such products will be classified as FFIs and required to register with the IRS as Participating FFIs by 30 June 2013. Participating FFIs will have to undertake reporting of US account holders to the IRS.

Products within scope

The Association of British Insurers (ABI) has been engaged with the IRS and the US Treasury in providing feedback on FATCA implementation.

Please see table below for a sample of those products which are potentially in scope, possibly out of scope and most likely out of scope:

Key challenges faced by insurance companies

Insurance companies need to ensure that their entity status is correctly identified, that they are fully aware of the associated implications and obligations and that their product line has been clearly classified as "in scope" or "out of scope" for FATCA.

The FATCA regulations are far reaching and post 1 January, 2014, affected insurers will need to be IRS compliant in providing reportable information and evidence of FATCA compliance on withholding and controls.

The ABI is lobbying the IRS and have highlighted key challenges faced by UK insurers in complying with FATCA:

- operational issues - such as the cost of compliance, policyholder identification issues, dealing with existing policies and legacy systems
- conflict between FATCA and local laws and regulations - such as issues around data privacy and the regulatory approvals required to change contract terms.

The challenges arising from these regulations will need to be addressed by insurers' key functions, including compliance, 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.

To comply, an FFI would need to obtain information about every account holder of every account across its group, comply with procedures to identify US accounts and report annually on any US account. Insurers are advised to act now to ensure that:

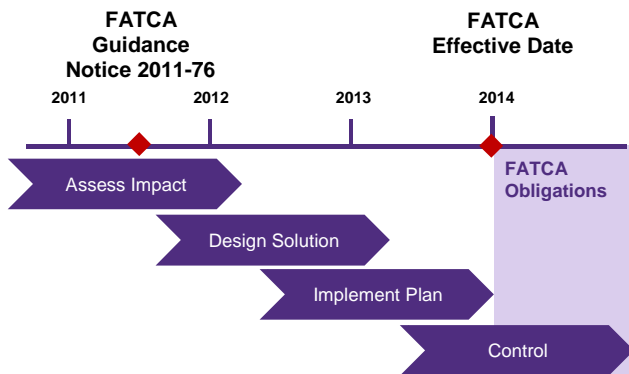
- current client relationships are fully understood, authenticated and documented
- processes and procedures are adjusted to detect US residents or citizens when a policy is taken out
- IT systems are evaluated to analyse their ability to meet the demands of enhanced requirements for customer identification, account monitoring and reporting
- procedures are in place to manage the recalcitrant US policy holders

potentially in scope	possibly out of scope	most likely out of scope
<ul style="list-style-type: none"> Unit-linked and with profits investment plans and bonds Investment management Pre-retirement pensions savings 	low risk products, eg <ul style="list-style-type: none"> Employer sponsored pension schemes Pensions in payment 	"Risk Contracts" - contracts with no cash values, eg <ul style="list-style-type: none"> general insurance reinsurance term life policies

FATCA timeline

The effective date of 1 January 2013 was extended, but is still fast approaching and there is an increasing apprehension that the resources of UK insurers, already under strain in preparing for the EU Solvency II directive (1 January 2013), could be severely stretched.

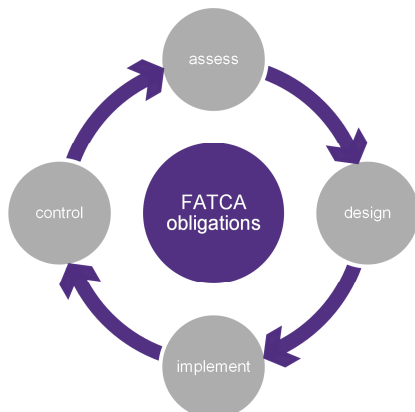
The time to complete such an implementation will depend on a number of factors, including global business functions and profiles.



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 - entity and product analysis
- identify number of US/non-US policyholders. Analyse information collected and potential gaps to remediate
- investigate local level privacy laws vs. FATCA requirements
- co-ordinate reporting and withholding requirements

Design

- mapping affected processes by function and business line
- define required changes and their materiality
- develop change mechanisms (systems / training / communications / products)

Implement

- incorporate FATCA requirements into existing KYC and anti-money laundering procedures
- implement change mechanisms

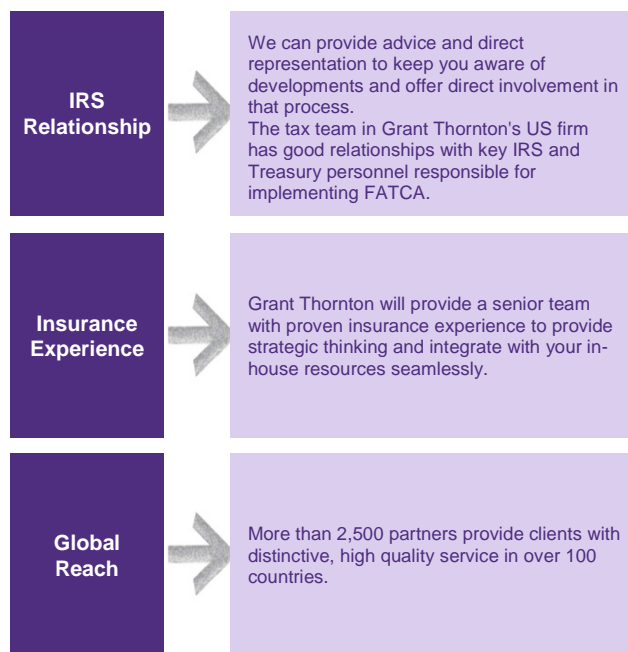
Control

- FATCA compliance verification

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 distinctive service offering is reflected through our:



To find out more about Grant Thornton's FATCA services, contact us on FATCA@uk.gt.com

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