

# FATCA for Banks

## Foreign Account Tax Compliance Act

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### 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 autumn of 2011, with final regulations due in the summer of 2012. The IRS has amended the effective date to a phased rollout with FATCA affecting US dividends and interest as of 1 January 2014 and all withholding payments and gross proceeds affected 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 include institutions such as:

- banks
- funds
- brokers
- custodians
- asset managers
- insurance companies

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, even though certain portions of this interest may not be treated as US source under current rules

### Key challenges faced by non-US banks

Banks need to ensure that their entity status is correctly identified and that they are fully aware of the entity associated implications and obligations.

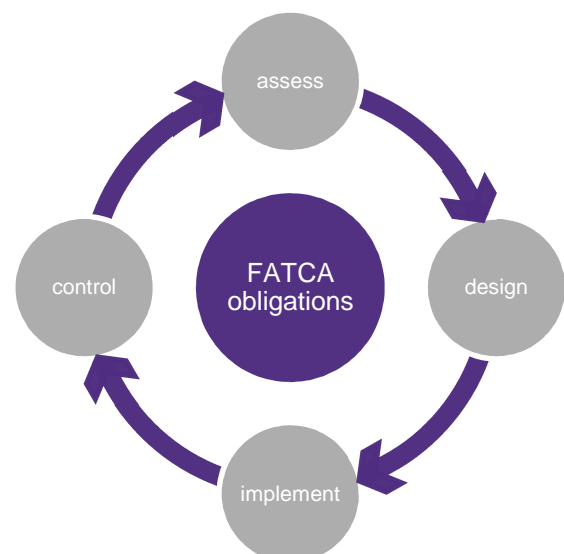
The FATCA regulations are far reaching and post 1 January 2014, affected banks will need to be IRS compliant in providing reportable information and evidence of FATCA compliance on withholding and controls. FFI agreements need to be in place by 30 June 2013.

The identification and documentation requirements of customers will become considerably more demanding with the burden of proof residing with the banks themselves. Ultimately, the regulatory requirements will impact:

- know your customer (KYC)
- account opening processes
- withholding tax processing
- transaction processing systems and reporting

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

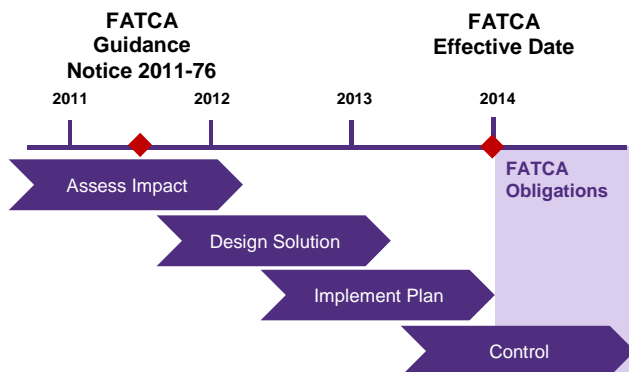
These business functions will need to assess, design and implement plans to mitigate risks and ensure on-going controls are in place to maintain FATCA compliance.



## FATCA Timeline

The effective date of 1 January 2013 was extended, but is still fast approaching and there is an increasing apprehension that the time to complete a FATCA implementation could take longer than the time remaining.

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
- investigate local level privacy laws vs. FATCA requirements
- assess ability to merge qualified intermediary and FATCA operations, 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

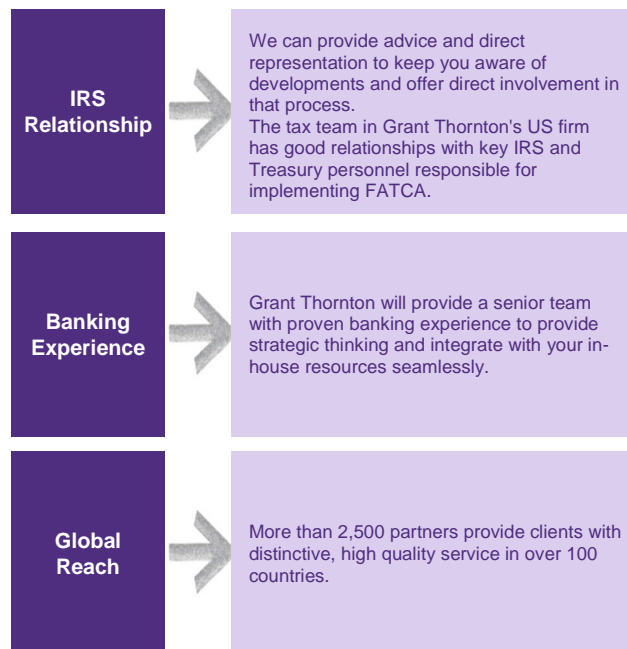
### Control

- 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](mailto:FATCA@uk.gt.com)

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