

# FATCA Implementation Update

2014 FATCA Implementation Update

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# Foreign Account Tax Compliance Act (“FATCA”)

- FATCA was incorporated into the HIRE Act that became law on March 18, 2010 (IRC sections 1471 through 1474).
- In principal part, FATCA targets offshore tax evasion by imposing substantial gross withholding on a large class of “withholdable payments” unless the recipient agrees to specific undertakings designed to identify US owners.
- The FATCA rules essentially require a “foreign financial institution” (“FFI”) to enter into, and to comply with, a reporting and withholding agreement (“FFI Agreement”) with the IRS with respect to US account holders. An FFI that enters into an FFI Agreement is referred to as a “Participating FFI.” An FFI that does not enter into an FFI Agreement (referred to as a “Non-Participating FFI”) would be subject to a 30% gross withholding tax on withholdable payments, unless it is otherwise exempted from the FATCA regime.
- Foreign entities that are not FFIs (“NFFEs”) and that do not qualify for an exemption will be subject to less demanding requirements to avoid FATCA withholding on withholdable payments. An NFFE will be required to provide the withholding agent with the name, address and TIN of each of its “substantial US owners,”<sup>4</sup> or to certify that it does not have any substantial US owners.
- FATCA Requires U.S. withholding agents to perform enhanced due diligence on foreign accounts and perform withholding and reporting in addition to their current regulatory obligations under Chapter 3. Non-compliant withholding agents take secondary liability for the 30% FATCA charge.



## Foreign Account Tax Compliance Act (“FATCA”) (Cont’d)

- FATCA withholding: Generally, 30% withholding required on certain payments made to nonparticipating foreign financial institutions (“FFIs”) and certain non-financial foreign entities (“NFFEs”). Under FATCA, to avoid being withheld upon, FFIs may register with the IRS and agree to report to the IRS certain information about their U.S. accounts, including accounts of certain foreign entities with substantial U.S. owners. Alternately, FFIs resident in countries which have signed Model 1 IGAs with the U.S. may report this information directly to local tax authorities and do not need to enter into an agreement with the IRS. These FFIs must still register and obtain a GIIN, however.
- Withholdable payments are generally FDAP income. Will also include proceeds from sale of property that generates interest or dividends.
- Withholding will generally not be required on payments to participating FFIs who enter into agreements with the IRS to report information about accounts held by US persons. NFFEs who report certain information about substantial US owners will also be exempt from the withholding requirement.
- Under the IGA framework, many FFIs may report to local tax authorities who will pass the information along to the IRS, rather than reporting directly.

# FATCA Implementation Overview

- New Final, Temporary, and Proposed Regulations released February 20, 2014 making substantive changes to Final Regulations and providing guidance on integration of FATCA with Chapter 3 and Chapter 61 withholding and information reporting.
- IRS Notice 2014-33 provides: “Further Guidance on the Implementation of FATCA and Related Withholding Provisions.” This notice announces that calendar years 2014 and 2015 will be regarded as a transition period for purposes of enforcement and administration with respect to the implementation of FATCA by withholding agents, foreign financial institutions (FFIs), and other entities with chapter 4 responsibilities, and with respect to certain related due diligence and withholding provisions under chapters 3 and 61, and section 3406, that were revised in regulations issued earlier this year as referenced in section II of this notice.
- Registration portal is now available at: <https://sa2.www4.irs.gov/fatca-rup/>.
- The IRS has published a Foreign Financial Institution (FFI) list on IRS.gov. The list contains the names of financial institutions and other entities that have completed Foreign Account Tax Compliance Act registration with the IRS and obtained a global intermediary identification number (GIIN).

# Forms and Registration

- Registration portal is open: <https://sa.www4.irs.gov/fatca-rup/>
- The following FATCA Forms and Instructions for 2014 are now available on the IRS.GOV Forms and Publications Website:
  - Form 1042 - and Instructions
  - Form 1042-S and Instructions
  - Form 8966 and Instructions
  - Form W-8BEN – and Instructions
  - Form W-8BEN-E and Instructions
  - Form W-8ECI and Instructions
  - Form W-8EXP and Instructions
  - Form W-8IMY and Instructions
- Updated information has now been added to the following forms:
  - Form W-8BEN-E
  - Form W-8ECI
  - Form W-8EXP
  - Form W-8IMY
- Publication 515 has not yet been revised to incorporate recent regulatory changes addressing withholding agents' international withholding and reporting obligations. Persons seeking information about the scope of these changes, which address both non-resident withholding and reporting and the Foreign Account Tax Compliance Act (FATCA) should refer directly to these regulations, the text of which is available here: [FATCA – Regulations and Other Guidance](#). The IRS intends to update Publication 515 at a later date.



## Current Focus areas

- Classify legal entities within the Expanded Affiliated Group (Model 1 IGA FFI, Model 2 IGA FFI, non-IGA FFI, NFFE, etc.)
- Analyze the impact of FATCA on your company
- Amend current onboarding, withholding and reporting processes to comply with FATCA



# Who should prepare for FATCA compliance?

US Withholding Agents	US person that has control, receipt, custody disposal or payment of any withholdable payment
US Financial Institutions (USFIs)	US entity that accepts deposits, hold financial assets for the account of others as a substantial part of its business, or engages (or holds itself out as being engaged) primarily in the business of investing or trading securities, commodities, partnerships, or any interests in such position
Foreign Financial Institutions (FFIs)	Non-US entity that accepts deposits, hold financial assets for the account of others as a substantial part of its business, or engages (or holds itself out as being engaged) primarily in the business of investing or trading securities, commodities, partnerships, or any interests in such position
Non Financial Foreign Entities (NFFEs)	<p>Includes any foreign entity that is not FFI or is not one of the following specifically EXCEPTED entities:</p> <p>Any publicly traded corporation and its corporate affiliates (more than 50% of vote and value)</p> <ul style="list-style-type: none"><li>➤ Any entity organized under the laws of a possession of the US</li><li>➤ Any foreign government, or any wholly owned agency thereof</li><li>➤ Any international organization or any wholly owned agency or instrumentality of such</li><li>➤ Any foreign central bank (unless acting as intermediary for clients)</li><li>➤ Any other class of persons identified by the secretary as posing a low risk of tax evasion</li></ul>
US Individuals	US citizens, US residents (e.g., green cardholder) and non-resident aliens who meet the substantial presence test

# Revised FATCA Implementation Timelines

Date	Action
January 1, 2013	FATCA effective date
January 17, 2013	Final FATCA regulations released
May 5, 2014	Last day to register for inclusion in June 2, 2014 IRS list of participating FFIs and registered deemed compliant FFIs.
June 30, 2014	Earliest effective date of an FFI agreement
July 1, 2014	Withholding agents must begin withholding on US source FDAP income for new accounts and non-participating FFIs.
December 31, 2014	begin withholding on preexisting entity account holders that are undocumented prima facie FFIs
January 1, 2015	Begin FATCA withholding on undocumented individual preexisting high value accounts
March 15, 2015	Participating FFIs required to file information reports on U.S. accounts for calendar year 2014.
January 1, 2016	Begin withholding on remaining undocumented preexisting accounts
January 1, 2017	Withholding on gross proceeds and foreign pass-through accounts expected to begin.





# Non-Financial Entity FATCA Compliance

- Entities which are not considered a Foreign Financial Institution (“NFE”) will have the following compliance obligations under FATCA:
- NFEs should identify any withholdable payments made by all companies in the group and identify to whom such payments are made.
- Withholdable payments generally include U.S. source compensation, interest, dividends, rents, royalties, or proceeds from the sale of property giving rise to dividends or interest.
- Note that the regulations provide that if a withholding agent is unable to determine the source of a payment at the time of payment, the payment must be treated as U.S. source.
- Note further that payments typically free from 1441 withholding (e.g. portfolio interest) are treated as withholdable payments for FATCA purposes.



# Non-Financial Entity FATCA Compliance

- The identity and FATCA status of payees should be ascertained by collecting Forms W-9 (for U.S. payees) or the appropriate W-8 Form (for non-U.S. payees).
  - W-8BEN—this form should be collected from non-U.S. individuals
  - W-8EXP—this form should be collected from non-U.S. tax exempt payees
  - W-8BEN-E—this form should be collected from non-U.S. entities who are beneficial owners of the payments
  - W-8IMY—this form should be collected from non-U.S. pass-through entities (i.e. partnerships) and intermediaries.
- U.S. partnerships should collect documentation (Forms W-8 or W-9) from all partners.
- These requirements are no different from current requirements under existing U.S. withholding rules.
- NFEs should also determine the FATCA status of all entities in the group and prepare the appropriate W-9 or W-8 series form for such entities. These forms should be provided to counterparties who make withholdable payments to the group.
  
- All withholdable payments made to the group should be identified to ensure correct forms have been provided to all payors.



# What is an FFI?

Foreign Financial Institutions (“FFIs”) are broadly defined:

- Depository Institutions (Banks)
- Custodial Institutions (Mutual Funds)
- Specified Insurance Companies that have cash value products or annuities
- Investment Entities (Hedge Funds or PE funds)
- Holding Companies
- Treasury Centers

By definition, investment funds organized outside the U.S. will be FFIs.



## Exempt FFIs

FATCA regulations exempt many categories of FFIs from the requirement to register and report, such as:

- Most governmental entities
- Most non-profit organizations
- Certain small, local financial institutions
- Certain retirement entities

Unless otherwise exempt, FFIs that do not both register and agree to report face a 30% withholding tax on certain U.S.-source payments made to them.

NOTE: For withholdable payments made prior to January 1, 2015, verification of a GIIN is not required with respect to payees that are reporting Model I FFIs. => Reporting Model I FFIs will have additional time beyond July 1, 2014 to register and obtain a GIIN to ensure that they are included on the IRS FFI list before January 2, 2015.



# FFI Agreement & Registration

FFIs that enter into an agreement with the IRS to report annually on their account holders may be required to withhold 30% on certain payments to foreign payees if such payees do not comply with FATCA.

FFIs are required to report annually:

- US accounts maintained by U.S. individuals, U.S. entities or foreign entities with U.S. substantial owners
- Payments made to NPFIs

FFIs are required to register on the IRS portal in order to obtain a Global Intermediary Identification Number (GIIN)

FFI are required to appoint a Responsible Officer that will certify FFIs compliance with the obligations under the agreement.

# FFI Agreement

An FFI Agreement must be structured in the following way:

- I. Section 1. Purpose and Scope
- II. Section 2. Definitions
- III. Section 3. Due Diligence Requirements for documentation and identification of account holders and nonparticipating FFI payees.
- IV. Section 4. Withholding Requirements
- V. Section 5. Deposit Requirements
- VI. Section 6. Information Reporting and Tax Return Obligations
- VII. Section 7. Legal Prohibitions on Reporting U.S. Accounts and on Withholding
- VIII. Section 8. Compliance Procedures
- IX. Section 9. Participating FFI Withholding Certificate
- X. Section 10. Adjustments for Overwithholding and Underwithholding and Refunds
- XI. Section 11. FFI Group
- XII. Section 12. Expiration, Modification, Termination, Default and Renewal of Agreement
- XIII. Section 13. Miscellaneous provisions (i.e. governing law, notices, etc.).

**Biegel Waller can provide a sample agreement upon Client's request.**



# FATCA for U.S. Financial Institutions and Entities

US Financial Institutions (USFIs) and other types of U.S. withholding agents are required to withhold 30% on certain U.S. source payments made to foreign entities, if they are unable to document such entities for purposes of FATCA.

➤ USFI and U.S. withholding agents must also report to the IRS information about certain non-financial foreign entities with substantial U.S. owners.

➤ USFI are also eligible to submit a FATCA Registration Application via the FATCA Registration Website for the following reasons:

- A USFI with a foreign branch in a Model I IGA jurisdiction to obtain a GIIN for the branch
- A USFI with a foreign branch that is a qualifying intermediary (QI) to renew the branch's QI agreement
- A USFI may register as a sponsoring entity for FFIs and agree to perform, on behalf of the FII, all the FATCA activities that the FFI otherwise would have to do.
- A USFI may register as a Lead FI to manage the FATCA registration Process for members of its Expanded Affiliated Group of FFIs.

# Compliance Roadmap

- Identify all FFIs and NFFEs in the extended group
- Determine whether any of the FFIs are in an IGA jurisdiction
- Gather required information
- Register all FFIs for whom registration will be required
- Complete new W-8 forms for all foreign entities and provide to U.S. payors or other withholding agents
- Comply with terms of FFI agreement





# Noncompliance with an FFI agreement

In cases in which foreign law would prevent an FFI from complying with an FFI agreement, Treasury in collaboration with other governments developed two alternative model intergovernmental agreements (IGAs):

## I. Model 1 IGA

➤ Reporting financial institutions would satisfy the requirements by reporting specified information about U.S. accounts to their governments, followed by the automatic exchange of that information on a government-to-government basis with the U.S.

## II. Model 2 IGA

➤ Reporting financial institutions should report specified information about U.S. accounts directly to the IRS in a manner consistent with the final regulation, supplemented by a government-to-government exchange of information on request. Thus, an FFI, or a branch of an FFI, that is reporting under Model 2 will apply §1.1471-4, as well as the terms of the FFI agreement, as modified by the applicable Model 2 IGA



## Information to obtain by all Registrants

In order to register FI will need to provide the following information:

All registrants:

- FI Type (Single, Lead, Member, or Sponsoring Entity)
- FI's legal name
- FI's country of Residence for tax purposes
- FI classification
- FI's mailing address
- FI's QI/WP, WT EIN, if the FI has in effect one of these agreements. Confirm whether the institution intends to maintain or renew its status as a QI, WP, or WT.
- Confirm whether the FI maintains a branch in a jurisdiction outside of its country of tax residence, and then confirm whether the FI is a tax resident of the U.S. or maintains a U.S. branch (other than the U.S. territories)
- If the FI is a tax resident of the U.S. or maintains a branch in the U.S. (other than the U.S. territories, the EIN of the FI or branch.



## Information to obtain by all Registrants (Cont'd)

- Each jurisdiction in which the FI maintains a branch, along with whether the branch is a Limited Branch and whether the FI intends to maintain QI, WP, or WT status for that branch.
- Business Title for the FATCA responsible officer for the FI, along with legal name and contact information.
- Confirm whether the FI's Responsible officer will designate one or more Points of Contact (POCs) and, if so, the POC's contact information.
  - Note: FIs are allowed to have up to 5 POCs.



## Information to obtain by Lead only

In addition to the information required to be obtained by all registrants, the Lead needs to obtain:

- Member FI's legal names, countries of residence for tax purposes, and Member types.

Once the Lead has established the Member's account, the Member or its Lead will be required to complete the Member's Registration.

NOTE: The RO for a Lead automatically becomes POC for each of the Lead's Member FIs.



## Information to obtain by QI, WP, or WT

- Confirm whether the QI/WP/WT's legal name has changed since the effective date of its most recent QI/WP/WT agreement, and, if so, the new legal business name and reason for the name change (merger, liquidation, etc.).
- For QI/WP/WTs, the Responsible Party's name, contact information, and whether or not that is the same person listed as the RO for the FI.
- The list of private agreement intermediaries (PAI) contracts that are effective (if applicable).

# Registration for FFIs

Registration is the required for FFIs to become FATCA compliant:

- Financial Institutions that are treated as Reporting Financial Institutions under a Model 1 IGA should register as Registered Deemed-Compliant Foreign Financial Institutions.
- Financial Institutions that are treated as Reporting Financial Institutions under a Model 2 IGA should register as Participating Foreign Financial Institutions



# Model IGAs

## Model 1 IGA

➤ An agreement between the U.S. or the Treasury Department and a foreign government or one or more foreign agencies to implement FATCA through reporting by financial institutions to such government or agency thereof, followed by automatic exchange of the reported information with the IRS.

## Model 2 IGA

➤ An agreement or arrangement between the U.S. or the Treasury Department and a foreign government or one or more foreign agencies to implement FATCA through reporting by financial institutions directly to the IRA in accordance with the requirements of an FFI Agreement, supplemented by the exchange of information between such foreign government or agency thereof and the IRA.



# Jurisdictions with Model 1 or 2 IGAs in force.

- *Jurisdictions that have signed agreements:*
- **Model 1 IGA**
- [Australia \(4-28-2014\)](#)
- [Belgium \(4-23-2014\)](#)
- [British Virgin Islands \(6-30-2014\)](#)
- [Canada \(2-5-2014\)](#)
- [Cayman Islands \(11-29-2013\)](#)
- [Costa Rica \(11-26-2013\)](#)
- [Denmark \(11-19-2012\)](#)
- [Estonia \(4-11-2014\)](#)
- [Finland \(3-5-2014\)](#)
- [France \(11-14-2013\)](#)
- [Germany \(5-31-2013\)](#)
- [Gibraltar \(5-8-2014\)](#)
- [Guernsey \(12-13-2013\)](#)
- [Hungary \(2-4-2014\)](#)
- [Honduras \(3-31-2014\)](#)
- [Ireland \(1-23-2013\)](#)
- [Isle of Man \(12-13-2013\)](#)
- [Israel \(6-30-2014\)](#)
- [Italy \(1-10-2014\)](#)
- [Jamaica \(5-1-2014\)](#)
- [Jersey \(12-13-2013\)](#)
- [Latvia \(6-27-2014\)](#)
- [Liechtenstein \(5-19-2014\)](#)
- [Luxembourg \(3-28-2014\)](#)
- [Malta \(12-16-2013\)](#)
- [Mauritius \(12-27-2013\)](#)
- [Mexico \(4-9-2014\)](#)
- [Netherlands \(12-18-2013\)](#)
- [New Zealand \(6-12-2014\)](#)
- [Norway \(4-15-2013\)](#)
- [South Africa \(6-9-2014\)](#)
- [Spain \(5-14-2013\)](#)
- [Slovenia \(6-2-2014\)](#)
- [United Kingdom \(9-12-2012\)](#)





## Jurisdictions with Model 1 or 2 IGAs in force.

- **Model 2 IGA**
- [Austria \(4-29-2014\)](#)
- [Bermuda \(12-19-2013\)](#)
- [Chile \(3-5-2014\)](#)
- [Japan \(6-11-2013\)](#)
- [Switzerland \(2-14-2013\)](#)
- NOTE: More than 45 other countries are actively negotiating IGAs

# Registration for Participating FFIs and Reporting Model 2 FFIs



## FFI

➤ An FFI, as well as USFI, may register via the FATCA registration website available at :

**[http:// www.irs.gov/fatca](http://www.irs.gov/fatca)**

to enter into an FFI agreement on behalf of its branches (including its home office) so that each of such branches may be treated as a participating FFI.

## A reporting Model 2 FFI

➤ A reporting Model 2 FFI may also register on the FATCA registration website, on behalf on one or more of its branches (including its home office), to obtain a GIIN and to agree to comply with the terms of an FFI agreement, as modified by an applicable Model 2 IGA.

Each branch of a participating FFI or reporting Model 2 FFI that is registered, other than a limited branch, will be issued a GIIN to be used in connection with complying with the FFI agreement and to identify itself to withholding agents.

# Registration for Participating FFIs and Reporting Model 2 FFIs



## Sponsoring Entities

- An entity that agrees to perform the due diligence, withholding, and reporting obligations of on or more FFIs may register with the IRS via the FATCA registration website to be treated as a sponsoring entity.
- If a sponsoring entity also seeks to obtain status as a participating FFI or reporting Model 2 FFI:
  - => The entity must separately register for participating FFI or reporting Model 2 FFI status and may do so via the FATCA registration site. (The IRS intends to update the FATCA registration user guide to the FATCA registration website to provide information on the registration process for sponsored entities.)

# Electronic vs. Paper Registration

## Electronic Registration:

- Allows Financial Institutions (FI) to appoint delegates to perform registration tasks
- Generates automatic notifications when a FI status changes (email notification)
- Issues the Global Intermediary Identification Number (GIIN)\*

## Paper Registration

➤ Financial institutions are strongly encouraged to use the online registration process. However, the IRS will also accept registration forms on paper. FATCA registration Form 8957 is available at: <http://www.irs.gov/pub/irs-utl/f8957.pdf>.

**NB:** Paper registration forms will experience slower processing times than online registration, and registrants will not receive a GIIN needed to demonstrate FATCA compliance until processing of their paper form is completed.

# Electronic Registration

FATCA electronic registration system is a secure , web-based system that FI may use to register online as:

- A Participating Foreign Financial Institution (PFFI)
- A Registered Deemed-Compliant FFI (RDCCFI)
- A Limited FFI (Limited FFI)
- A Sponsoring Entity

The registration system is accessible 24 hours a day, seven days a week.

The IRS has provided a guide to electronic registration, available at:  
<http://www.irs.gov/pub/irs-pdf/p5118.pdf>

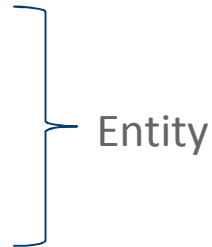
# Electronic Registration

Before starting the registration process, please make sure your system complies with minimum requirements. FATCA Registration should function on most browsers, however, SAFARI may not properly display the windows.

Actual registration took place between January 1 and May 5<sup>th</sup>, 2014. FFIs may continue to register after the May 5 deadline, but they were not included in the first list.

To register, a FI should:

1. Create an online FATCA account for itself and for Members of an Expanded Affiliated Group for which it is designated as the Lead.
  - Each registering Financial Institution will receive a FATCA ID and will create its own access code to be used to log on to the FI's online FATCA account.
    - Branches of a FI will not have separate accounts, but will be assigned separate GIINs.
  - A FI may register as:
    - Single
    - Lead
    - Member
    - Sponsor



# Types of Entities

## I. Single

- FI that does not have any Member FIs and that is registering for PFFI or RDCFFI status or itself or one or more of its branches

## II. Lead

- Means a USFI, FFI or a Compliance FI that will initiate the FATCA Registration process for each of its Member FIs that is a PFFI, RDCFFI, or Limited FFI and that is authorized to carry out FATCA registration for a group of its Member FIs.
- NOTE: An FFI seeking to act as a Lead FI cannot have Limited FFI status in its country of residence.

## III. Member

- An FFI that is registering as a member of an EAG that is not acting as a Lead FI and that is registering as a PFFI, RDCFFI, or Limited FI.
- For Registration purposes, a Member FI may also include a foreign branch of a USFI that is treated as a Reporting FI under Model I IGA or that is renewing\* its QI Agreement.
- A Member FI will need to obtain its FATCA ID from its Lead FI.
  - FATCA ID is used to identify the Member FI and not the same number as the GIIN.
  - GIIN is issued to FIs, other than Limited Branches, after the FATCA registration is approved.



## Types of Entities (Cont'd)

### IV. Sponsoring Entity

- An entity that will perform the due diligence, withholding, and reporting obligations of one or more sponsored investment entities or controlled foreign institutions (Sponsored FFIs).

A USFI is a Financial Institution that is a resident of the U.S.





## Electronic Registration Step 2

# Registration Form

The registration Form consists of four parts. An FI will need to complete only the relevant parts of the form for the particular type of registration requested:

## Part 1

➤ Must be completed by all FIs to provide basic identifying information about each FI.

## Part 2

- Must be completed only by a Lead FI and must be completed via the FATCA Registration website.
  - A Lead FI should identify each member FI for which it is acting as a Lead FI and that is treated as:
    - a PFFI (including a Reporting FI under a Model 2 IGA),
    - RDCFII (including a Reporting FI under a Model 1 IGA), or
    - Limited FFI.
- Additionally, a Member FI may include a foreign branch of a USFI that is registering to obtain a GIIN or to renew its QI Agreement.

# Registration Form(Cont'd)

## Part 3

- Must be completed only by an FI, including a foreign branch of a USFI, currently acting as a QI, WP, or WT and that wishes to renew its agreement.
- NOTE: Part 3 should be completed only by an FI currently acting and currently using and issued Employer Identification Number to establish its applicable status.
  - An FI that would like to apply to become a first-time QI,WP, or WT cannot do so using the paper Form 8957 or the FATCA website. Instead, the FI must complete Form 14345 in accordance with its instructions.
    - It is advisable (but not required) to apply for a first-time QI, etc. status before the submitting FATCA Registration Form.

## Part 4

- Must be completed by all FIs and requires an FI to certify that the information provided in the FATCA Registration Form is accurate and complete and to agree or confirm that it will comply with its FATCA obligations.
  - An FI, including a Reporting FI under a Model I or II IGA, that is registering to renew its QI, WP, or WT Agreement will be agreeing to the terms of such renewed 2014 Model QI, WP or WT Agreement.

# Registration Form(Cont'd)

## Part 3

- Must be completed only by an FI, including a foreign branch of a USFI, currently acting as a Qualified Intermediary (QI), Withholding Foreign Partnership (WP), or Withholding Foreign Trust (WT) and that wishes to renew its agreement.
- NOTE: Part 3 should be completed only by an FI currently acting and currently using and issued Employer Identification Number to establish its applicable status.
  - An FI that would like to apply to become a first-time QI, WP, or WT cannot do so using the paper Form 8957 or the FATCA website. Instead, the FI must complete Form 14345 in accordance with its instructions.
  - It is advisable (but not required) to apply for a first-time QI, etc. status before the submitting FATCA Registration Form.

## Part 4

- Must be completed by all FIs and requires an FI to certify that the information provided in the FATCA Registration Form is accurate and complete and to agree or confirm that it will comply with its FATCA obligations.
  - An FI, including a Reporting FI under a Model I or II IGA, that is registering to renew its QI, WP, or WT Agreement will be agreeing to the terms of such renewed 2014 Model QI, WP or WT Agreement.

# Appendix 1 - Registration



Single	Lead	Member	FI Sponsoring Entity
<ol style="list-style-type: none"> <li>1. Create an account; choose an access code and the system will assign a FATCA ID.</li> <li>2. Complete Part 1 of the Registration Form (Form 8957).</li> <li>3. Complete Part 3 if you have a QI, WP, or WT agreement in effect and wish to renew that agreement.</li> <li>4. On or after January 1, 2014, electronically sign and submit the registration form.</li> <li>5. Wait for processing.</li> <li>6. Upon approval, FI will receive a notification; GIIN will be assigned to FI and any branches that are not limited.</li> <li>7. Assigned GIIN will be included in the next published IRS FFI list.</li> </ol>	<ol style="list-style-type: none"> <li>1. Create an account; choose an access code and the system will assign a FATCA ID.</li> <li>2. Complete Part 1 of the Registration Form (Form 8957).</li> <li>3. Complete Part 2.</li> <li>4. Complete Part 3 if you have a QI, WP, or WT agreement in effect and wish to renew that agreement.</li> <li>5. On or after January 1, 2014, electronically sign and submit the registration form.</li> <li>6. Give your members their FATCA login information.</li> <li>7. Wait for processing.</li> <li>8. Upon approval, FI will receive a notification; GIIN will be assigned to FI and any branches that are not limited.</li> <li>9. Assigned GIIN will be included in the next published IRS FFI list.</li> </ol>	<ol style="list-style-type: none"> <li>1. Enter online system with the FATCA ID and Temporary Access Code given to you by your Lead. Create a new Access Code.</li> <li>2. Complete Part 1 of the Registration Form (Form 8957).</li> <li>3. Complete Part 3 if you have a QI, WP, or WT agreement in effect and wish to renew that agreement.</li> <li>4. On or after January 1, 2014, electronically sign and submit your registration form.</li> <li>5. Wait for processing.</li> <li>6. Upon approval, FI Member will receive a notification; GIIN will be assigned to FI and any branches that are not limited.</li> <li>7. Assigned GIIN will be included in the next published IRS FFI list.</li> </ol>	<ol style="list-style-type: none"> <li>1. Create an account; choose an access code and the system will assign a FATCA ID.</li> <li>2. Complete relevant questions in Part 1 of the Registration Form (Form 8957). Select "NONE OF THE ABOVE" for Question 4; N/A for Q. 6; NO for Q. 7. Then, skip to Q.10.</li> <li>3. Do not complete Part 3.</li> <li>4. On or after January 1, 2014, electronically sign and submit the registration form.</li> <li>5. Wait for processing.</li> <li>6. Upon approval, the Sponsoring Entity will receive a notification;</li> <li>7. Assigned GIIN will be included in the next published IRS FFI list.</li> </ol>

# Form 8957

**Form 8957** Foreign Account Tax Compliance Act (FATCA) Registration  
OMB No. 1545-2246

- All applicants must complete Part 1.
- This form will not be processed if it is not signed.
- DO NOT fill out this form if you have begun registering at <http://www.irs.gov/fatca>.
- The IRS strongly recommends that applicants register by accessing the online version of this form at <http://www.irs.gov/fatca>. The use of this paper form will take longer for the IRS to process and if any information is missing or incomplete the delay in registration may be significant.
- This form should be mailed no earlier than January 1, 2014 to:  
FATCA, Stop 6099 AUSC  
3651 South IH 35  
Austin, Texas 78741

**Part 1 Financial Institution Registration**

1 Select Financial Institution Type (check only one)  
 Single (not a member of an Expanded Affiliated Group)  
 Lead of an Expanded Affiliated Group  
 Member (not Lead) of an Expanded Affiliated Group. If a Member, you must provide the FATCA ID issued for such Member and provided to your Lead.  
 Sponsoring Entity

2 Legal Name of the Financial Institution \_\_\_\_\_

3 What is the Financial Institution's country of residence for tax purposes? \_\_\_\_\_

4 Select the Financial Institution's FATCA classification in its country of tax residence (check only one)  
 Participating Financial Institution not covered by an IGA, or a Reporting Financial Institution under a Model 2 IGA  
 Registered Deemed-Compliant Financial Institution (including a Reporting Financial Institution under a Model 1 IGA)  
 Limited Financial Institution  
 None of the above

5 Mailing Address of Financial Institution

Country: \_\_\_\_\_

Address Line 1: \_\_\_\_\_

Address Line 2: \_\_\_\_\_

City: \_\_\_\_\_ State/Province/Region: \_\_\_\_\_ ZIP/Postal Code: \_\_\_\_\_

6 Indicate whether the Financial Institution has in effect a withholding agreement with the IRS to be treated as one of the following:

a  Qualified Intermediary (QI)  
Provide QI EIN: \_\_\_\_\_  
Does the Financial Institution intend to maintain its status as a QI?  
 Yes  
 No

b  Withholding Foreign Partnership (WFP)  
Provide WFP EIN: \_\_\_\_\_  
Does the Financial Institution intend to maintain its status as a WFP?  
 Yes  
 No

c  Withholding Foreign Trust (WFT)  
Provide WFT EIN: \_\_\_\_\_  
Does the Financial Institution intend to maintain its status as a WFT?  
 Yes  
 No

d  Not applicable

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**11b** This line 11b must be completed by the Financial Institution's RO. Upon entering the POC information below, checking the box that follows, and submitting this registration form, the RO is providing the IRS with written authorization to release FATCA information to the POC. This authorization specifically includes authorization for the POC to complete this Form 8957 FATCA Registration, to take other FATCA-related actions, and to obtain access to the Financial Institution's tax information.

Business Title of POC \_\_\_\_\_

Legal Name of POC  
 Last (Family) \_\_\_\_\_ First (Given) \_\_\_\_\_ Middle \_\_\_\_\_

City \_\_\_\_\_ County \_\_\_\_\_

Business Address Line 1 \_\_\_\_\_

Business Address Line 2 \_\_\_\_\_ State/Province/Region \_\_\_\_\_ ZIP/Postal Code \_\_\_\_\_

Business Telephone Number \_\_\_\_\_ Business Fax Number \_\_\_\_\_ Business Email Address of POC \_\_\_\_\_

File POCs are allowed per Financial Institution. Use additional sheets to add POCs.

By checking this box, I \_\_\_\_\_, as RO for the Financial Institution, provide the authorization described above to the identified POCs listed in this line 11b. Once this authorization is granted, it is effective until revoked by either the Financial Institution or the POC.

**Part 2 Expanded Affiliated Group**

Lead Financial Institutions must read the instructions before filing out Part 2.

**12** Provide the following for each Financial Institution member of the Expanded Affiliated Group:

Legal name of Member Financial Institution	Country of residence for tax purposes	Member type *

\* Enter one of the following:  
 Participating Financial Institution not covered by an IGA, or a Reporting Financial Institution under a Model 2 IGA  
 Registered Deemed-Compliant Financial Institution (including a Reporting Financial Institution under a Model 1 IGA)  
 United Financial Institution

**Part 3 Renewal of Agreement for QIs, WPs, or WTs**

**13** Has QI/WP/WT's legal name changed since the effective date of its most recent QI/WP/WT agreement?

Yes. Provide new legal business name \_\_\_\_\_  
 Provide reason for name change:  
 Merger  
 Liquidation  
 Re-branding (name change only)

No



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**Part 3** Renewal of Agreement for QIs, WPs, or WTs (Continued)

**14** Responsible Party

Legal Name of Responsible Party \_\_\_\_\_  
Last (2 words) \_\_\_\_\_ First (2 words) \_\_\_\_\_ Middle \_\_\_\_\_

Business Title \_\_\_\_\_

Business Telephone Number \_\_\_\_\_ Business Fax Number \_\_\_\_\_ Business Email Address of Responsible Party \_\_\_\_\_

Is the responsible party the same person listed as the RO for the Financial Institution?  
 Yes  
 No

**15** Identify any private arrangement intermediary (PAI) contracts that are effective:

Legal Name of PAI \_\_\_\_\_

Country \_\_\_\_\_

Address Line 1 \_\_\_\_\_

Address Line 2 \_\_\_\_\_

City \_\_\_\_\_ State/Province/Region \_\_\_\_\_ ZIP+Postal Code \_\_\_\_\_

Email Address of PAI \_\_\_\_\_  
Use additional sheets to add more PAIs.

**Part 4** SIGNATURE

By checking this box, I, \_\_\_\_\_, as RO for the Financial Institution, certify that, to the best of my knowledge, the information submitted above is accurate and complete and agree that the Financial Institution (including its branches, if any) will comply with its FATCA obligations in accordance with the terms and conditions reflected in regulations, intergovernmental agreements, and other administrative guidance to the extent applicable to the Financial Institution based on its status in each jurisdiction in which it operates.

**Sign Here**

I declare that I have examined this form including any accompanying statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Form 8957 (2/2013)



## Electronic Registration Step 3

# Submission

## NOTE:

Reporting FIs under a Model 1 or 2 IGA:

- Most reporting FIs under Model 1 IGA are registering only to obtain a GIIN and to authorize one or more POCs to receive information related to FATCA Registration on behalf of the FI.
- Most reporting FIs under Model 2 IGA are registering only to obtain a GIIN, authorize one or more POCs to receive information related to FATCA Registration on behalf of the FI, and to confirm that they will comply with the terms of an FFI Agreement as modified by the applicable Model 2 IGA.
- A Reporting FI operating one or more branches not in a IGA jurisdiction is also agreeing to the terms of an FFI Agreement for any such branch, unless the branch is treated as a Limited Branch.



## Electronic Registration Step 4 - Approval



# Global Intermediary Identification Number (GIIN)

➤ After the FI registration form is approved, the FI will be issued a GIIN and will be identified on a published list available at:

[www.irs.gov/fatca](http://www.irs.gov/fatca)

➤ GIINs are alphanumeric, comprised of 19 characters, and are in the following format:

XXXXXX.XXXXX.XX.XXX

- Characters 1-6 : FATCA ID
- Characters 8-12: Financial Institution Type (Lead, Sponsoring, etc.)
- Characters 14-15: Category Code (Lead, Single, Member, Branch, Sponsoring)
- Characters 17-19: Country Identifies (Country Code, Use 999 for country code "Other")

➤ The GIIN may be used by an FI to identify itself to withholding agents and to tax administrators for FATCA reporting.

➤ A separate GIIN will be issued to the FI to identify each jurisdiction the FI maintains a branch that is participating or registered deemed-compliant.

➤ The FFI List has been posted electronically and will be updated monthly.



# FATCA Obligations before and after registration

## Payors and withholding agents must:

- Analyze character and source of payments they are making and determine whether a payment exception applies.
- Update your written withholding policies and validation procedures to address FATCA issues.
- Update third party agreements to address FATCA-related risks.
- Expand your data systems so that Forms 1042s capture FATCA information.
- Create reporting mechanisms for any US ownership disclosures made to you
- Collect withholding documentation (new Form W-8BEN-E) or facts that verify payee's FATCA status.
- In the absence of valid documentation, withhold the 30% charge.
- Perform annual reporting.

# FATCA Obligations before and after registration (Cont'd)



Recipients and foreign payees should:

- Perform due diligence: identify your foreign affiliates that are (or should be) providing Forms W-8BEN and receiving Forms 1042-S; determine status of those entities for any potential FFIs, etc.
- Either disclose its substantial U.S. owners or certify eligibility for a payee exception from the disclosure requirements.



## Appendix - Registration Definitions



# Registration Definitions

Term	Meaning
Compliance FI	PFFFI, Reporting FI under a Model I or II IGA, or USFI that agrees to establish and maintain a consolidated compliance program and to perform a consolidated periodic review on behalf of one or more Member FIs that are part of its compliance group. Compliance FI should register as a Lead FI.
Exempt Beneficial Owner	An entity described in Treas. Reg. § 1.1471-6 as: <ol style="list-style-type: none"><li>1) A foreign government, a political subdivision of a foreign government, or a wholly owned agency or instrumentality of any one or of the foregoing.</li><li>2) An international organization or a wholly owned agency or instrumentality thereof</li><li>3) A foreign central bank of issue</li><li>4) A government of a U.S. Territory</li><li>5) A treaty-qualified retirement fund</li><li>6) A broad participation retirement fund</li><li>7) A narrow participation retirement fund</li><li>8) A fund formed pursuant to a plan similar to a section 401(a) plan</li><li>9) An investment vehicle used exclusively for retirement funds</li><li>10) A pension fund of an exempt beneficial owner</li><li>11) An entity wholly owned by exempt beneficial owners.</li><li>12) An entity treated as an exempt under Model I or II IGA.</li></ol>

# Registration Definitions(Cont'd)

Term	Meaning
<b>Expanded Affiliated Group of FIs (EAG)</b>	One or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation, but only if the common parent owns directly stock in at least one of the other includible corporations totaling more than 50% of the total voting power of the stock of such corporation, and with a value equal to more than 50% of the total value of the stock of such corporation, and if stock meeting these vote and value requirements in each of the includible corporations is owned directly by one or more of the other includible corporations.
<b>FATCA ID</b>	For all FIs other than Member FIs, the FATCA ID is a randomly generated six-character alphanumeric string. For Member FIs, the FATCA ID will be comprised of 12 characters: the first six: will be the Lead FI's FATCA ID, followed by a period, and the last five characters will be alphanumeric and assigned sequentially to each Member.
<b>Financial Institution (FI)</b>	An institution that is a depository institution, custodial institution, investment entity, or insurance company (or holding company of an insurance company) that issues cash value insurance or annuity contracts.

# Registration Definitions(Cont'd)

Term	Meaning
<b>Foreign Financial Institution (FFI)</b>	<p>A Financial Institution that is not located in the U.S. and includes:</p> <ol style="list-style-type: none"><li>1) An FFI treated as a Reporting FFI under a Model I or II IGA, including foreign branches of a USFI or U.S. Territory FI</li><li>2) An FFI treated as a Reporting FI under a Model 2 IGA and</li><li>3) A foreign branch of a USFI or a U.S. Territory FI that has in effect a QI agreement.</li></ol>
<b>GIIN</b>	<p>A global intermediary identification number assigned to a PFFI or RDCFFI.</p>
<b>Limited Branch</b>	<p>A Branch that, under the laws of the jurisdiction in which it is located, is unable to:</p> <ol style="list-style-type: none"><li>1) report, close, or transfer its U.S. accounts to a USFI, to a branch of the FFI, or to a Reporting FI under a Model 1 IGA, or</li><li>2) Withhold, block, or close an account held by a recalcitrant account holder or nonparticipating FFI or otherwise transfer the account to a USFI, to a branch of the FFI that will report the account to the IRS, to a PFFI, or to a Reporting FI under Model I IGA.</li></ol> <p>It also includes a related branch under a Model I or II IGA that is treated as nonparticipating FFI branch because it operates in a jurisdiction that prevents such branch from fulfilling the requirements of a PFFI or deemed-compliant FFI.</p>

# Registration Definitions(Cont'd)

Term	Meaning
<b>Limited FFI</b>	An FFI means an FFI that, due to local law restrictions, cannot comply with the terms of an FFI Agreement, or otherwise be treated as a PFFI or RDCFFI, and that is agreeing to satisfy certain obligations for its treatment as a Limited FFI.
<b>Member FI</b>	An FFI that is registering as a member of an EAG that is not acting as a Lead FI and that is registering as a PFFI, RDCFFI, or Limited FFI. It may also include a foreign branch of a USFI that is treated as a Reporting FI under a Model 1 IGA, or that is renewing its QI Agreement.
<b>Nonreporting FI</b>	An entity that is established in a jurisdiction that has in effect a Model 1 or 2 IGA and that is treated as nonreporting in Annex II of the applicable Model IGA or that is otherwise treated as a deemed-compliant FFI or an exempt beneficial owner under Treas. Reg. § 1.1471-5 or § 1.1471-6
<b>Participating FFI (PFFI)</b>	An FFI that: <ol style="list-style-type: none"><li>1) Is registering to agree to enter into an FFI agreement</li><li>2) Is treated as a Reporting FI under a Model 2 IGA and that is certifying that it will comply with the terms of an FFI Agreement, as modified by the terms of the applicable Model 2 IGA, or</li><li>3) Is a foreign branch of a USFI that has in effect a QI Agreement, unless treated as Reporting FI under a Model 1 IGA</li></ol>

# Registration Definitions(Cont'd)

Term	Meaning
<b>Point of Contact (POC)</b>	An Individual authorized by the FI to receive FATCA-related information regarding the FI and to take other FATCA-related actions on behalf of the FI.
<b>Private Arrangement Intermediary (PAI)</b>	A contractual arrangement between a QI and a PAI that is a RDCFFI or certified deemed-compliant FFI under which the PAI generally agrees to perform all of the obligations of the QI wrt the accounts maintained directly by the PAI.
<b>Qualified Intermediary (QI)</b>	An FFI (or foreign branch of a USFI) that has entered into a qualified intermediary withholding agreement with the IRS>
<b>Registered Deemed Compliant FFI (RDCFFI)</b>	<ol style="list-style-type: none"> <li>1) An FFI that is registering to confirm that it meets the requirements to be treated as a local FFI, nonreporting FI member of a PFFI group, qualified collective investment vehicle, restricted fund, qualified credit card issuer, or sponsored investment entity or controlled foreign corporation.</li> <li>2) A Reporting FIN under a Model 1 IGA that is registering to obtain an GIIN</li> <li>3) An FFI that is treated as a Nonreporting FI under a Model 1 or 2 IGA and that is registering pursuant to the applicable Model 1 or 2 IGA.</li> </ol>
<b>Reporting FI</b>	<p>An FI that is treated as a Reporting FI under the terms of a Model 1 or Model 2 IGA that is in effect.</p> <p>It also includes a foreign branch of a USFI that is treated as a Reporting FI under the terms of a Model 1 IGA in effect.</p>

# Registration Definitions(Cont'd)

Term	Meaning
<b>Sponsoring Entity</b>	An entity that will perform the due diligence, withholding, and reporting obligations of one or more sponsored investment entities or CFCs.
<b>U.S. Financial Institutions (USFI)</b>	An FI that is a resident of the U.S.