
IFS news alert

December 2010

FATCA and Insurance Companies

The Foreign Account Tax Compliance Act 2009 imposes new reporting requirements on many institutions. The legislation will potentially impact many insurance companies.



Does your company...

Offer insurance products with a significant investment component or cash value

?

Receive income from US investments (e.g. bonds or equities)

?

or

Have substantial US shareholders

?

If so, have you considered the impact of FATCA on your business?

Foreign Account Tax Compliance Act

The Foreign Account Tax Compliance Act ("FATCA") was one of a broad range of provisions signed into US law by President Obama as part of the HIRE Act in March 2010. This reporting regulation requires certain foreign financial institutions ("FFIs") to return information on account or policy holders to the US tax authorities ("IRS"). Non financial foreign entities ("NFFEs") may also be subject to reporting requirements, where a US resident holds a substantial (in excess of 10%) shareholding in the company.

Non compliance with FATCA results in a **30% withholding tax being levied** on US source interest and dividends and gross proceeds from the disposal of US investments. The provisions are effective for payments made after 31 December 2012.

Notice 2010-60, issued in August 2010, provides specific guidance on the types of insurance products that will be within the scope of the new FATCA rules. Insurance companies which offer products with an investment component or an associated cash value are likely to be within the scope of FATCA. As such, if your company is offering annuities, life assurance products with an investment component or insurance wrappers, it is likely to come within the definition of an FFI.

In order to be compliant, an FFI must enter into an agreement with the IRS agreeing to perform certain due diligence procedures to identify the residence of all account holders.

Specific information on policies held by US persons must be reported to the IRS.

NFFEs will be required to provide details of each substantial US owner to counterparties of transactions giving rise to payment of US sourced income.

Are your systems ready?

Once a full analysis has been done to confirm which products are in scope, the challenge will be to properly identify all account holders. Where there are no US policyholders, this must be evidenced to the IRS. Where there are US policyholders, the FFI is required to collect documentation on these accounts and provide certain information (including the US account holder's tax identification number, name, address, and account movements) to the IRS.

This may require systems changes for many insurance companies to ensure that the required information is recorded at inception for all policyholders. Transitional arrangements will be made in relation to existing policy holders.

How PwC can help

As industry leaders who proactively monitor and, in many cases, shape emerging aspects of the legislation, PwC has leading expertise in FATCA legislation. PwC has assembled a multi-disciplinary team to evaluate the impact of FATCA and to assist companies within the scope of FATCA to plan and execute the required steps to be compliant with the new legislation.

Your contacts for FATCA issues

For further information on the potential impact of FATCA on the insurance industry, please speak to your usual PwC contact or one of the contacts listed:

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