

Global IRW Newsbrief

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United States and United Kingdom Sign First Bilateral FATCA Intergovernmental Agreement

The United States (US) Department of the Treasury and United Kingdom's (UK's) HM Treasury on September 14 announced the signing of the first intergovernmental agreement (the US-UK IGA) under the Foreign Account Tax Compliance Act (FATCA). As anticipated, the agreement specifically identifies the UK institutions and products that are seen as presenting a low risk of being used to evade US tax and, therefore will be effectively exempt from FATCA requirements.

The US-UK IGA closely follows the Model Agreement issued in July 2012 by the governments of France, Germany, Italy, Spain, the UK, and the US. See [*Global IRW Newsbrief: Treasury releases model intergovernmental agreement for implementing FATCA*](#) for more information on the Model Agreement.

As noted in the accompanying UK HM Treasury announcement, the US-UK IGA addresses the:

- Legal barriers encountered by financial institutions when complying with FATCA;
- Imposition of US FATCA withholding tax on income received by UK financial institutions or on payments they make;
- Burdens imposed on financial institutions to make certain they are proportionate and further the goal of combating tax evasion; and
- Establishment of a reciprocal approach to FATCA implementation.



In addition to the Articles in the Model Agreement, the US-UK IGA includes a new Article titled Consistency in the Application of FATCA to Partner Jurisdictions, which allows more favorable terms under other IGAs to be automatically applied to the US-UK IGA.

The signing of the US-UK IGA follows the conclusion of negotiations on the UK specific Annex II which notes the type of institutions and products that qualify as Exempt Beneficial Owners, Deemed-Compliant Financial Institutions, and Exempt Products.

PwC Observation: *The Annex includes a wider array of retirement plans than what was included in the proposed FATCA regulations. This can be seen as a positive move by the US Treasury, however, there are very narrow carve outs for investment products with only UK Investment Trusts and Venture Capital Trusts being included as potentially deemed compliant. Other UK tax favored and government sponsored products such as Individual Savings Accounts, Child Trust Funds, and Premium Bonds have also been listed as "Exempt Products".*

However, for other authorized and regulated investment funds, it seems only the potentially burdensome and narrow deemed compliant routes under the US regulations may remain available (i.e., the Restricted Funds and Qualified Collective Investment Vehicles).

The US-UK IGA also provides that either the UK or the US can request a consultation to develop appropriate measures in the case of any difficulties which may arise in the implementation of their IGA.

The US-UK IGA has been presented to the Houses of Parliament and will undergo a 21 day review period as part of the ratification process. Financial institutions and other interested parties will be consulted on implementation of the IGA in the UK. Draft legislation will be published in the UK later in 2012.

PwC Observation: *It is expected that a separate Consultation on Implementation Document will be released by the UK HM Treasury in the near future.*

The US Treasury announcement can be found at: <http://www.treasury.gov/press-center/press-releases/Pages/tg1711.aspx>

The UK HM Treasury announcement can be found at: http://www.hm-treasury.gov.uk/press_82_12.htm

For more information about FATCA, please visit our web site at <http://www.pwc.com/us/fatca>.

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