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## ***IRS opens FATCA online registration system to provide a beneficial user testing period***

*August 20, 2013*

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### ***In brief***

The Internal Revenue Service (IRS) announced the opening of the Foreign Account Tax Compliance Act (FATCA) registration system on August 19, 2013. The registration system will enable financial institutions (FIs) to register and obtain a global intermediary identification number (GIIN). FIs are requested to submit the required information online as final on or after January 1, 2014 – no GIINs will be issued before this date. Between now and December 31, 2013, FIs are permitted to establish their online account, input preliminary information, refine such information, and become familiar with the system thereby resulting in a user testing period.

The IRS release included:

- A 75-page User Guide and Overview which provides instructions for completing the online registration process including step-by-step instructions for each question and the registration information required for each type of FI as well as information on how to edit and delete a registration.
- Tips for Logging into the FATCA Registration System which provides helpful hints for accessing the system.
- A GIIN Composition document which explains the components of the 19-character GIIN.

The IRS also released the final Form 8957 (*Foreign Account Tax Compliance Act (FATCA) Registration*), including instructions. This form is substantially similar to the draft dated April 17, 2013 which did not have instructions. The IRS is strongly encouraging the use of the online registration system in lieu of paper registration requests on Form 8957, but will accept registrations made on this form beginning January 1, 2014. The IRS notes that registrations using Form 8957 will experience slower processing times than online registration. Consequently, FIs registering by paper will wait longer for a GIIN.

The available testing period and new IRS guidance are long awaited and welcome developments for stakeholders. The ability to gain a practical understanding of the registration system before the information is formally submitted is intended to enable the registration process to be conducted in a more orderly fashion. The IRS is encouraging **preparedness** by suggesting that registrants input and

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edit information early during the testing period so they are ready to submit the final information starting in January 2014. It should be noted that the user guide does not contain information about registering sponsored entities, and that guidance is forthcoming.

The registration site and materials also make reference to the FFI Agreement in which a significant number of foreign financial institutions (FFIs) are expected to enter. However, stakeholders are still awaiting a draft of such agreement.

## **In detail**

### **Online registration promotes efficiency**

FI registration with the IRS is an important cornerstone of the FATCA regime for entities wanting to achieve compliance. The IRS intends for its secure, web-based system to enable FIs to satisfy their FATCA registration requirements efficiently and effectively in a paperless manner. The registration system is intended to be a one-stop shop that enables the registrant and its related entities (e.g., members and branches) to handle the administrative and compliance matters relating to obtaining a GIIN – a critical step in avoiding the 30% FATCA withholding.

***Observation:** According to the Form 8957 instructions, FIs must finalize their registration by April 25, 2014 in order to be included in the June 2014 FFI List. Registering FIs will receive a notice of registration acceptance and will be issued a GIIN. Although the form instructions are silent on this issue, it may be possible to submit a paper Form 8957 by April 25, 2014 and still be included in the June List.*

### **Entities eligible to register**

Broadly speaking, the FATCA registration system should be used by an FI to register itself (and its branches, if any) as a participating foreign financial institution (PFFI), a registered deemed-complaint FFI (RDCFFI), a limited FFI, or a sponsoring entity. Note that RDCFFIs include reporting FFIs under a Model 1 intergovernmental agreement (IGA). Registration will enable the entity to obtain a GIIN and to accomplish the following:

- An FFI, non-US branch of an FFI, or USFI that is treated as a reporting FI under a Model 1 IGA can authorize one or more points of contact (POCs) to receive information related to registration on the FI's behalf.
- An FFI, or foreign branch of an FFI, that is treated as a reporting FI under a Model 2 IGA, can authorize one or more POCs to receive information related to registration on the FI's behalf, and confirm that it will comply with the terms of an FFI Agreement, as modified by the applicable Model 2 IGA.
- An FFI, or branch of an FFI, other than one covered by an IGA, can enter into an FFI Agreement to be treated as a PFFI, agree to meet the requirements to be treated as an RDCFFI, or confirm that it will comply with the terms applicable to a limited FFI or a limited branch.
- An FI (including a USFI) seeking to act as a sponsoring entity, can agree to perform the due diligence, reporting, and withholding responsibilities on behalf of one or more sponsored FFIs.
- 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), can renew its QI, WP, or WT Agreement.
- A USFI wishing to act as a lead FI (defined below) for purposes of registering its member FIs, can identify itself as such.

***Observation:** The new IRS guidance provides clarity on how a USFI will register and serve as either a sponsoring or lead entity. The IRS guidance also provides an important distinction when a USFI has a foreign branch under a Model 1 or 2 IGA. Specifically, branches under a Model 1 IGA must register. The registration appears necessary as they will need to provide information directly to local governments and in some cases file a nil return. However, a foreign branch of a USFI located in a Model 2 IGA country does not need to register unless such foreign branch needs to renew its QI, WP, or WT agreement.*

### **Lead FIs and EAG relationships clarified**

A key requirement under the registration process is that an FI must select one of the four registration types: Single (not a member of an expanded affiliated group (EAG)), lead (within an EAG), member (within an EAG), and FI sponsoring entity. The term 'lead FI' includes a USFI, FFI, or a compliance FI that agrees to carry out FATCA registration for each of its member FIs that is a PFFI, RDCFFI, or limited FFI and that is authorized to carry out most aspects of its members' FATCA registrations. A compliance FI is defined as a lead FI that agrees to establish and maintain a consolidated compliance program and

to perform a consolidated periodic review on behalf of one or more members FIs that are part of its EAG (the compliance group). A compliance FI must also have the authority to terminate the FATCA status of each member FI within its compliance group.

The new IRS guidance presents additional clarity surrounding the 'lead FI' type. A lead FI is not, however, required to act as a lead FI for all members within an EAG. As a result, an EAG may include more than one lead FI that will carry out FATCA registration for a portion of its members. The particular lead FI will perform FATCA registration for each of its members through the website.

***Observation:** The final Form 8957 instructions and the User Guide provide a number of helpful definitions for reference such as 'lead FI.' The instructions make clear however, that the definitions should be used only for registration purposes and that FIs should refer to definitions under an IGA or FATCA regulations to determine their obligations.*

#### **Creating an online FATCA account and home page**

The first step in the FATCA registration process is to create an online **FATCA account**. This may be done only by a single, lead, or sponsoring entity. An FI must create an access code (password) along with certain 'challenge questions' in case the access code is lost. Once submitted, the online system will provide a six-character FATCA ID used to identify the FI only for registration purposes. The FATCA ID is a different number than the 19-character GIIN, although the FATCA ID will be the first six characters of the GIIN.

***Observation:** In order to access the registration site for on-going use,*

*the access code and FATCA ID must be used. The login credentials can be shared by the responsible officer (RO) and up to five POCs – no other contacts may access the registration system. If an authorized contact forgets the credentials, that person may 'reset' the access code by answering challenge questions correctly. From a practical perspective, coordination and sharing must occur among users of a specific FATCA account.*

Once the FATCA account is created, the FI home page provides a central location for accessing all relevant information about the FATCA registration account. The system may be used for on-going account management and will include features such as a message board. As a result, most communications between the IRS and FI will occur electronically. The individual identified as the RO in Question 10 may likely be the only individual who will receive emails from the IRS related to the FI's FATCA account. However, a POC is also an individual authorized to receive FATCA related information from the IRS and to take FATCA-related actions on behalf of the FI upon the request of the IRS.

The FI's **account status** will be located on the registration home page. According to the User Guide, there are nine potential account statuses for an FI. These include (i) Initiated, (ii) Registration submitted, (iii) Registration incomplete, (iv) Registration under review, (v) Registration rejected, (vi) Agreement cancelled, (vii) Agreement terminated, and (viii) Approved. This latter category is generally the desired category where a notice of registration and GIIN is awarded by the IRS. The ninth and final status is Limited conditional, which denotes an FI that will not receive a GIIN and will not appear on the next published FFI List.

***Observation:** The initial registration to obtain a GIIN may be performed by the sponsoring entity without providing significant detail about their sponsored entities. Additional guidance is expected related to sponsored FFIs and how they can provide information about their sponsored entities.*

#### **Notice of registration acceptance and GIIN composition**

When a registration is finalized and approved in 2014, a registering FI will be given a notice of registration acceptance and issued a unique GIIN. The first IRS FFI list of GIINs will be posted online by June 2, 2014 and is expected to be updated monthly thereafter. An FI will use its GIIN to identify itself to withholding agents and to tax administrators for FATCA reporting. A separate GIIN will be issued by an FI to identify each jurisdiction in which the FI maintains a branch that is participating or registered deemed-complaint.

GIINs are alphanumeric and are comprised of 19-characters. There are four sections within the GIIN, each separated by a period:

- **1 through 6 characters = the FATCA ID** – randomly generated six-character alphanumeric string. For member FIs, the first six characters will follow that of the lead FI or sponsoring entity
- **7 is a character representing a period**
- **8 through 12 characters = the FI type** – depends on the type of financial entity. For example, lead and sponsoring entities are five zeros
- **13 is a character representing a period**

- **14 through 15 characters = the category code based on financial institution or branch category** (lead, single, member, branch, and sponsoring)
- **16 is a character representing a period**
- **17 through 19 characters = the country identifier**, chosen by viewing Appendix D in the User Guide; Over 250 countries are listed but registrants should choose the number 999 if their specific country is not included.

### ***The takeaway***

The new IRS guidance is consistent with the revised timelines announced by the IRS in July of this year for implementing various provisions under FATCA. See previous [Global IRW Newsbrief](#) on this topic. The delay in FATCA implementation provides a unique opportunity for stakeholders to have more time to

gather complete and accurate information about their entities, make necessary key business decisions, and conduct the registration process in an orderly manner. However, the registration process continues to demand that taxpayers work through their FATCA strategy upfront – how they are going to prepare for their compliance requirements going forward and avoid potentially costly FATCA withholding. A detailed analysis of the registration process and required data should occur **before registration**, including but not limited to the following:

- Given the broad definition of FFI, determining the specific types of entities that may qualify as FFIs. In addition, identifying entities which will be responsible for reporting tasks (e.g., what sponsoring entities should be designated as such).
- Registering FIs must gather and organize the required registration

information. This will improve the accuracy of the registration process and make take longer than anticipated.

- FIs that have not designated an RO must appoint one soon. An RO is required to establish an FI account and complete the FFI registration. This requirement is part of the larger issue of who throughout the organization is affected and should be involved with FATCA compliance.
- Evaluate the use of technology and automation. What specific efficiencies can be gained by effective use of technology in gathering and exchanging documentation? How could technology help leverage knowledge between related companies?

### ***Let's talk***

For more information on how FATCA might impact you, please contact a member of the **Global GIR Network**. To view FATCA contacts for over 30 countries worldwide, click [here](#).

### ***Additional background***

Access to the FATCA registration system and related support information can be found on the [IRS FATCA page](#). Additional FATCA information can be found on the US Treasury [FATCA Resource Center](#).

For additional thought leadership regarding FATCA guidance and implementation, please see our [Global IRW Newsbrief archive](#).

How do you plan to keep up-to-date with the release of the FATCA IGAs and some of their unique differences? [Access our FATCA IGA Monitor Website](#) that includes:

- a high-level overview of signed IGAs
- the latest IGA developments
- potential actions to think about as you look at the impact of the IGAs to your FATCA program.