

FATCA Timeline and Registration Delayed

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On July 12, 2013, the IRS issued new guidance regarding FATCA, the new U.S. tax regime designed to combat offshore tax evasion by U.S. taxpayers. In particular, the IRS (1) revised certain elements of the timeline for FATCA compliance; (2) announced that the opening of the FATCA Registration Portal has been delayed until at least August 19, 2013; and (3) provided information about foreign financial institutions ("FFIs") organized in jurisdictions that have entered into negotiations regarding FATCA-related Intergovernmental Agreements ("IGAs") with the United States.

Revised Timeline for FATCA Compliance

In our three-part series of Foley Advisers about FATCA, we described the preliminary FATCA compliance obligations of (1) U.S. stand-alone funds and U.S. feeder funds with only U.S. investors ([click here](#)), (2) U.S. master funds with offshore feeder funds that are treated as corporations for U.S. tax purposes ([click here](#)), and (3) offshore master funds with onshore and offshore feeder funds ([click here](#)). In each of the prior installments, we discussed the timeline for FATCA compliance, as prescribed by the final FATCA regulations issued in January 2013. The following chart summarizes the revisions to the timeline:

Affected Item	Old Timeline	New Timeline
Withholding <ul style="list-style-type: none"> ■ U.S.-source withholdable payments (e.g., interest and dividends) 	January 1, 2014	July 1, 2014
New Account Opening Procedures	January 1, 2014	July 1, 2014
Existing Account Due Diligence Obligations	June 30, 2014	December 31, 2014
Information Reporting by FFIs <ul style="list-style-type: none"> ■ All FFI Accounts Owned by U.S. Persons: Name, Address, Taxpayer I.D., Account Number and Account Balance. 	March 31, 2015 (with respect to 2013 & 2014)	March 31, 2015 (with respect to 2014 only; information reporting no longer applies to 2013)

The remainder of the timeline will remain unchanged. For example, withholding on gross proceeds from the sale or disposition of property that could produce U.S.-source withholdable payments still will begin on January 1, 2017.

FATCA Registration Portal

As discussed in our prior installments, in order to be deemed "FATCA-compliant," FFIs will be required to register with the IRS using the online "FATCA Registration Portal," which will be accessible through the IRS's website. Upon successful registration, an FFI will receive a Global Intermediary Identification Number ("GIIN"), a special taxpayer identification number for FATCA purposes, and its name and GIIN will be included in an online list of FATCA-compliant entities that will be published and updated periodically by the IRS.

Under prior guidance, the FATCA Registration Portal was supposed to be accessible by July 15, 2013, and GIINs were to be issued beginning in October 2013. The IRS, however, announced that the FATCA Registration Portal now will not be available until at least August 19, 2013, and GIINs will not be issued until 2014.

In addition, the IRS announced that, once the FATCA Registration Portal opens, any registrations made during 2013 will not become

“final” until January 1, 2014. Therefore, on or prior to December 31, 2013, FFIs may amend any information they previously added to the Portal without consequence. The IRS intends for this period to be an opportunity for FFIs to become familiar with the system and for the IRS to work out any glitches.

FATCA registrations made on or before June 30, 2014, will become effective on July 1, 2014.

Clarification on IGA Status

The United States has concluded IGAs with several jurisdictions, and is in the process of negotiating IGAs with many more jurisdictions throughout the world. In order to provide greater certainty with respect to the impact of IGAs on the FATCA status of affected FFIs, the IRS will publish a list of countries that either have already concluded IGAs, or are in the process of negotiating IGAs. Any country included in the list will be treated as having an IGA in effect for FATCA purposes. Accordingly, if the United States is in the process of negotiating an IGA with a particular country, an FFI organized in that country will not have to wait until the relevant IGA has been concluded to have certainty on its FATCA status, so long as the country is included in the list produced by the IRS.

If you would like more detailed information regarding FATCA, please contact Kip Cawley, Rick Schaul-Yoder, Nicola Lemay, or your Foley Hoag lawyer.

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