

FATCA: Upcoming Compliance Deadlines for Non-U.S. Financial Institutions

Written by Christopher "Kip" Cawley

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During the multi-year build-up to FATCA,¹ the primary focus was on entity classification and registration, and less attention was paid to the compliance obligations of U.S. and non-U.S. entities affected by FATCA. Withholding and information reporting responsibilities under FATCA were generally known, but with the numerous deadline postponements and references to yet-to-be enacted local law, many affected entities took a wait-and-see approach to FATCA compliance.

FATCA officially became effective on July 1, 2014, and registration deadlines came and went at the end of 2014, ushering in the era of FATCA withholding and information reporting. In recent months, the IRS has opened its information reporting portal and non-U.S. jurisdictions heavily affected by FATCA (e.g., Cayman Islands and British Virgin Islands) have issued official guidance to implement FATCA compliance for financial institutions in their respective jurisdictions.

Now that the focus has shifted from self-assessment and registration to compliance, and in light of the developing law and infrastructure, entities with FATCA compliance obligations (and those who manage such entities) must remain aware of such obligations. The following list outlines upcoming FATCA compliance deadlines in 2015:

Deadlines for Cayman and BVI Financial Institutions

- **April 30, 2015: Cayman Islands Registration Deadline**
Each Reporting Cayman Islands Financial Institution² must register electronically with, and provide certain information to, the Cayman Islands Department for International Tax Cooperation (the "DITC").³
- **May 31, 2015: Cayman Islands 2014 FATCA Reporting Deadline**
Each Reporting Cayman Islands Financial Institution must file a 2014 information return with the DITC.⁴
- **Before June 30, 2015: BVI Registration Deadline**
Each Reporting BVI Financial Institution⁵ that is required to file a 2014 FATCA report must register with the BVI Financial Account Reporting System,⁶ and such registration must be approved by the BVI International Tax Authority, before such Reporting BVI Financial Institution can submit its 2014 report (which must be done by June 30, 2015, see below).
- **June 30, 2015: BVI 2014 FATCA Reporting Deadline**
Each Reporting BVI Financial Institution with reportable accounts must file a 2014 information return with the BVI International Tax Authority.⁷

Deadlines for Reporting Financial Institutions in Model 1 Jurisdictions (other than Cayman/BVI)

- **May 31/June 30, 2015: 2014 FATCA Reporting Deadline**
In general, Reporting Financial Institutions in other Model 1 jurisdictions must file any required 2014 FATCA reports with the relevant taxing authorities by one of these dates. Presently, there are almost 100 "Model 1" jurisdictions, so care must be taken to comply with the relevant local requirements (including registration requirements), to the extent such requirements are applicable to a particular entity.

Other 2015 Deadlines

■ **June 30, 2015: Due Diligence Deadline – High-Value Individual Accounts**

Model 1 and Model 2 Reporting Financial Institutions, and non-IGA Participating Foreign Financial Institutions⁸ must (1) complete a review of their electronic and paper files with respect to individuals who held accounts/were investors on June 30, 2014 and whose account balance/investment value exceeded \$1 million at that time, or at the end of 2014, and (2) properly document such individuals to determine whether they are U.S. or non-U.S. persons.

■ **December 31, 2015: Sponsored Entity Registration Deadline**

Any foreign financial institution that is a sponsored entity (*i.e.*, that relies on the GIIN of its sponsoring entity) must register with the IRS and obtain its own GIIN.

1. “FATCA” refers to the Foreign Account Tax Compliance Act provisions of the Hiring Incentives to Restore Employment (HIRE) Act of 2010, codified as Sections 1471-74 of the U.S. Internal Revenue Code, together with U.S. Treasury regulations promulgated thereunder, official guidance published by the U.S. Internal Revenue Service, and a growing network of inter-governmental agreements between the United States and non-U.S. jurisdictions and related local law in such non-U.S. jurisdictions.[↔]

2. Generally, a Cayman Islands custodial or depository institution or investment entity that is not exempt from FATCA under the terms of the Cayman Model 1 inter-governmental agreement with the United States.[↔]

3. To register with the Cayman tax authorities through the online portal, a Reporting Cayman Islands Financial Institution must provide its name, FATCA classification, GIIN (the Global Intermediary Identification Number issued to a foreign financial institution upon successful registration with the IRS for purposes of FATCA), and the name, address and contact information of the person who will serve as the Financial Institution’s point of contact for FATCA purposes.[↔]

4. Reporting is done electronically through the Cayman online portal and must include the following information: (1) the name, address and U.S. taxpayer identification number of each “Specified U.S. Person” that is an account holder/owner (directly or through a controlling interest in a non-U.S. entity); (2) such person’s account number/investment identification; and (3) such person’s account balance/value as of the end of 2014 (or immediately before the account/investment was terminated). **A “nil report” is required even if a Reporting Cayman Islands Financial Institution has no information to report.**[↔]

5. Generally, a BVI custodial or depository institution or investment entity that is not exempt from FATCA under the terms of the BVI Model 1 inter-governmental agreement with the United States.[↔]

6. The BVI Government’s FATCA website is located here although its online portal has not opened yet.[↔]

7. Each 2014 BVI report must include the same type of information described in Footnote 4 with respect to the Cayman Islands. **However, “nil reporting” will not be required in the British Virgin Islands.** As noted above, the BVI Government’s FATCA website is located here, although its online portal has not opened yet.[↔]

8. Generally, a custodial or depository institution or investment entity that is not exempt from FATCA under the terms of a relevant Model 1 or Model 2 inter-governmental agreement with the United States, or under the U.S. FATCA regulations (in the case of a foreign financial institution not in a Model 1 or Model 2 jurisdiction).[↔]

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