

Anchin Alert

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Anchin, Block & Anchin LLP
Accountants and Advisors



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FATCA – “Ready or Not” – Online Registrations Can be Finalized and Submitted

Under the Foreign Account Tax Compliance Act (FATCA), withholding agents must withhold tax on certain payments to Foreign Financial Institutions (FFIs) that do not agree to report certain information to the IRS about their U.S. accounts, including the accounts of certain foreign entities with substantial U.S. owners. An FFI may agree to report certain information about its account holders by registering to be FATCA compliant.

As of January 1, 2014, FFIs may now finalize their registration with the IRS and agree to report the above information to the IRS via the FATCA Registration System. The FATCA Registration System is a secure, web-based system that FFIs may use to register online as either a participating FFI (PFFI) or a registered deemed-compliant FFI (RDCFFI). An FFI may also register manually (on paper), but this is not recommended.

An FFI that registers on the [FATCA Registration Website](#), upon approval, will receive a Global Intermediary Identification Number (GIIN) from the IRS, unless the FFI is treated as a Limited FFI. A Limited FFI is an FFI that, due to local law restrictions, cannot comply with the terms of an FFI Agreement, or otherwise be treated as a Participating FFI or Registered Deemed Compliant FFI, and that is agreeing to satisfy certain obligations for its treatment as a Limited FFI. Beginning June 2, 2014, the IRS will publish a list of registered and approved FFIs and their GIINs every month. An FFI uses its GIIN to identify to withholding agents and the IRS that it is registered and approved. To ensure inclusion in the June 2014 IRS FFI List, a FFI will need to finalize its registration by April 25, 2014.

FFIs include, but are not limited to:

- Depository institutions (e.g. banks)
- Custodial institutions (e.g. mutual funds)
- Investment entities (e.g. hedge funds or private equity funds)
- Certain types of insurance companies that have cash value products or annuities.

Many categories of FFIs are exempt from the requirement to register and report by the FATCA regulations, including:

- Most governmental entities
- Most non-profit organizations
- Certain small, local financial institutions
- Certain retirement entities

FFIs that enter into an agreement with the IRS to report on their account holders may be required to withhold 30% on certain U.S. source payments made to foreign payees; if such payees do not comply with FATCA and are not otherwise exempt.

The Treasury has published Model Intergovernmental Agreements (IGAs) to make it easier for partner countries to comply with the provisions of FATCA. The IGA provides for a partnership agreement between the U.S. and a FATCA partnership jurisdiction, allowing FFIs in partner jurisdictions to report information on U.S. account holders directly to their national tax authorities, who in turn will report to the U.S. FFIs located in a jurisdiction covered by a “Model 1” IGA must register with the U.S. but report information on its account holders to their local taxing authority, who will

share that information with the IRS. FFIs located in a jurisdiction covered by a “Model 2” IGA that have signed an FFI agreement may report information on their account holders to the IRS without first having the account holder waive any local secrecy laws and may reduce withholding tax liability on the applicable FFI.

The treatment of an FFI established in a jurisdiction with an IGA that is treated as in effect may differ from the treatment described above. For example, for payments subject to withholding made prior to January 1, 2015, verification of a GIIN is not required with respect to payees that are reporting Model 1 FFIs (FFIs covered by a Model 1 IGA). As a result, reporting Model 1 FFIs will have additional time beyond July 1, 2014 to register and obtain a GIIN in order to ensure that they are included on the IRS FFI list before January 1, 2015. An FFI in such a jurisdiction should refer to the applicable IGA.

As of the date of this alert, Model 1 IGAs have been executed between the United States and the following jurisdictions: United Kingdom (including Jersey, Guernsey, and the Isle of Man), Cayman Islands, Costa Rica, Denmark, France, Germany, Ireland, Italy, Malta, Mexico, Netherlands, Norway, and Spain. Model 2 IGAs have been signed with Bermuda, Japan, and Switzerland.

A [Summary of FATCA Timelines](#) and due dates can be viewed on the IRS website using the link provided: [FATCA Timeline](#)

In the meantime, we will continue to monitor any additional FATCA guidance and developments and stand ready to assist you with your FATCA compliance needs. For more information, please contact your Relationship Partner or a member of Anchin’s Financial Services Group, at 212.840.3456.

Jeffrey I. Rosenthal, CPA Jeffrey.Rosenthal@anchin.com Partner-In-Charge	Peter L. Berlant, CPA Peter.Berlant@anchin.com Associate Partner-In-Charge	Jeffrey J. Bowden Jeffrey.Bowden@anchin.com Principal
James Burns, CPA James.Burns@anchin.com Senior Advisor	Michael Mazzola, CPA Michael.Mazzola@anchin.com Partner	Marc G. Goldberg, CPA Marc.Goldberg@anchin.com Partner
Mitchell Rosenthal, CPA Mitchell.Rosenthal@anchin.com Partner	Craig F. Silberberg, CPA Craig.Silberberg@anchin.com Partner	E. George Teixeira, CPA George.Teixeira@anchin.com Partner
Edward F. Thorp, CPA Edward.Thorp@anchin.com Partner		



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