Insurance Authority Workshop
Foreign Account Tax Compliance Act

Abu Dhabi
28 January 2014

Building a better working world

Agenda

- Introduction to FATCA
- FATCA and IGAs
- FATCA Timeline
- Focus for next 6 months
- US Treasury and IRS update
- Matters Arising

Foreign Account Tax Compliance Act

- FATCA is a new US tax law designed to tackle perceived tax evasion by US persons using accounts at non-US financial institutions (referred to as “foreign financial institutions” or “FFIs”) either directly or through other non-US entities

- FATCA generally requires FFIs:
  - To register with the Internal Revenue Services (IRS)
  - Review their existing customer base at 30 June 2014 for certain indicators of US person status
  - Expand the onboarding process for new customers and new accounts
  - Agree to report certain information about financial accounts held by US taxpayers or foreign entities in which US taxpayers hold a substantial ownership interest.

- In some circumstances, FFIs will be required to withhold on taxpayers that do not provide documentation.

Foreign Account Tax Compliance Act (cont'd)

- To address local legal impediments to compliance and to simplify practical implementation, the US in collaboration with other governments developed two model IGAs to implement FATCA

- Under an IGA, it is envisaged that the partner government will require all FFIs located in its jurisdiction (that are not otherwise exempt) to identify US accounts and report information about US accounts.

The US wants information – the purpose is not the collection of withholding tax

EY

Basic principle

Foreign Financial Institution

Participating in FATCA

- **FFI enters into an agreement with the IRS or complies under an Inter-Governmental Agreements (IGA) between its country and the United States:**
- Identify US persons who have financial accounts with the FFI either directly or through substantial ownership of certain non-US entities
- Identify FATCA status of entity customers and counterparties
- Report US persons’ assets to the IRS
- Apply withholding in certain circumstances Non-Participating FIs

Not participating in FATCA

- Certain payments which are subject to a **30% withholding tax;** generally applies to payments from US sources

Note: US financial institutions also have obligations under FATCA

Obligations of a Reporting Financial Institutions

Under an IGA financial institutions must register and comply

1	Products	▸ Identify the products falling under the scope of FATCA
2	New and Existing Customers	▸ Identify US persons (individuals & entities) ▸ Obtain relevant IRS forms, other self certification of status (or documentary evidence, if permitted) and waivers if required
3	Counterparties	▸ Identify the financial counterparties with US source of payments (individuals & entities) ▸ Obtain relevant IRS forms (or documentary evidence, if permitted) and waivers if required
4	Reporting	▸ Report US persons and their accounts ▸ Report recalcitrants-depending on IGA/non-IGA jurisdiction ▸ Report payments to Non-Participating FIs
5	Withholding	▸ Apply withholding to US source withholdable payments to NPFIs ▸ Remit payments to the IRS

FFIs and NFFEs

FFI

Foreign Financial Institution

- Accepts deposits in the ordinary course of a **banking** or similar business;

  OR
- **Holds financial assets** for the benefit of one or more other persons

  OR
- Is an **investment entity**

  OR
- Is an **insurance company** (or holding company of an insurance company) that issues or is obligated to make payments with respect to a 'financial account'

  OR
- Is an entity that is a **holding company** whose primary activity includes holding of (directly or indirectly) all or part of the outstanding stock of one or more related entities that are Financial Institutions*

  OR
- A **treasury centre** whose primary activity includes entering into hedging and financing transactions with or for Related Entities that are Financial Institutions*

NFFE

Non-Financial Foreign Entity

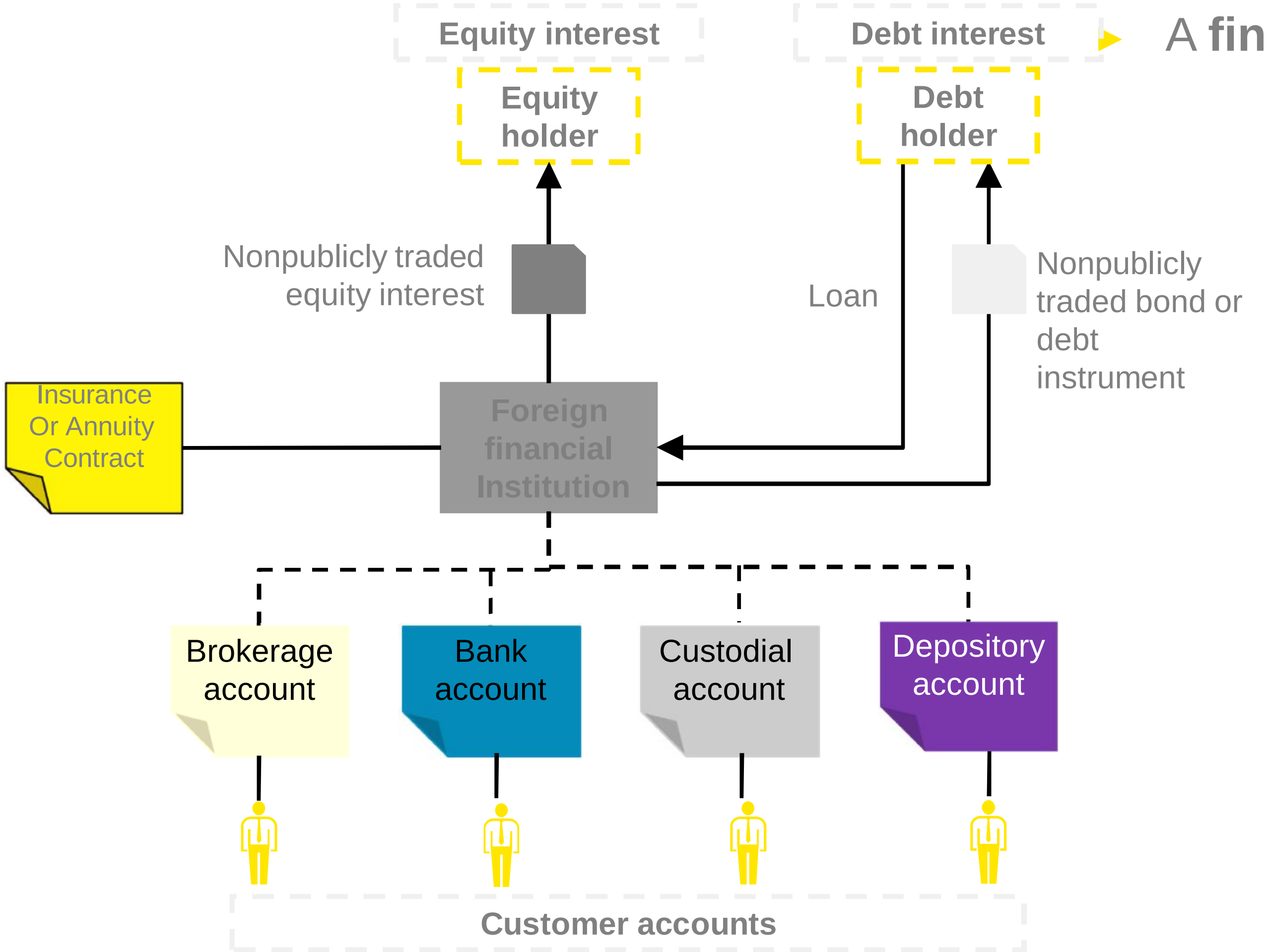
- Not an FFI
- Obligations depend on the NFFE status

* Holding Companies and Treasury Centres are included within the definition of an FFI in the US Treasury Regulations and UK HMRC Guidance Notes but not the Model IGAs.

Specified US person and US owned foreign entities

- **Specified US Person includes:**
  - An individual who is a citizen or resident of the US
  - Corporations, partnerships, estates and trusts formed under US law (subject to exceptions)
- **A US owned foreign entity is:**
  - A foreign entity which has one or more “substantial US owners” or “US controlling person” per an IGA
  - A ‘substantial US owner’ is a specified US person which owns directly or indirectly more than 10% (stock/interest) of such foreign entity
  - A ‘US controlling person” under an IGA is interpreted in a manner consistent with Financial Task Force Recommendations

Financial accounts under FATCA



- A **financial account** means:
  - Any depository or custodial account maintained by a financial institution (i.e., customer accounts)
  - Any **equity or debt interest** in the financial institution (other than interests that are regularly traded on an established securities market)
  - Any cash value insurance contract and any annuity contract issued/maintained by a financial institution
  - Certain credit balances or credit cards and prepaid cards

Which products are in scope?

Line of Business	In Scope	Out of Scope
Individual Life	• Whole Life • Interest Sensitive WL (ISWL) • Universal Life • Variable Life (VUL) • Endowment	• Insurance contracts with cash value < $50,000 at all times during the year • Term Life (including products with increasing premiums) – premiums do not decrease over time and there is no cash value payable without terminating the contract
Accident & Health	• Refundable (ROP) - when amounts payable upon termination/surrender of contract exceed total premiums paid	• Critical Illness • Personal Accident (incl. AD&D) • Individual Medical • Short-term Disability • Credit Life • Refundable (ROP)-when amounts payable upon termination /surrender of contract do not exceed premiums paid less any cost of insurance
Reinsurance	• Reinsurance arrangements involving cash value insurance contracts under which the company becomes solely liable for payment of future benefits under the contracts assumed or has assumed all administration of the underlying contracts.	• Indemnity reinsurance agreements
Retirement	• Fixed Annuities • Variable Annuities • Immediate Annuities	• Immediate annuities that monetize retirement or pension accounts using non-investment linked, non-transferable immediate life annuities • Retirement products that meet certain exemptions
Group	• Group Universal Life • Group Term Life – when amounts payable upon termination / surrender of contract exceed total premiums paid	• Insurance contracts with cash value < $50,000 at all times during the year

FATCA and IGAs

Two model intergovernmental agreements (IGA) were developed to implement FATCA

Model 1

- ❑ The partner jurisdiction reports to the IRS
- ❑ FATCA Partner FIs identify US accounts pursuant to rules contained in the IGA.
- ❑ FATCA Partner FIs report specified information about their US accounts to the partner jurisdiction.
- ❑ The exchange of information may be on a reciprocal or nonreciprocal basis.
- ❑ Administration and guidance rests with the local authorities

Model 2

- ❑ The FATCA Partner FIs located in the jurisdiction report information about their US accounts directly to the IRS.
- ❑ FATCA Partner FIs identify US accounts pursuant to rules contained in the IGA.
- ❑ FATCA Partner FIs report specified information about their US accounts to the IRS.
- ❑ Administration rests with IRS – limited local guidance
- ❑ FATCA Partner FIs also report to the IRS aggregate information with respect to holders of pre-existing accounts who do not consent to have their account information reported.

FATCA timeline

2013

19 Aug	▸ IRS online FATCA registration portal opens

2014

25 Apr	▸ Last date for FFI registration for inclusion in first IRS FFI list
2 Jun	▸ IRS to publish the first FFI list of participating FFIs
30 Jun	▸ Financial obligations to be grandfathered
1 Jul	▸ New customer onboarding procedures to be implemented ▸ Withholding on US sourced FDAP income to recalcitrants / NPFFIs
31 Dec	▸ Identification of prima facie FFIs (Regulations)

2015

31 Mar	▸ FATCA reporting for 2014 (Regulations)
30 Jun	▸ Identification and documentation of US status for pre-existing high value accounts (>$1 million)
TBD	▸ FATCA reporting for 2014 (IGA)

2016

31 Mar	▸ FATCA reporting for 2015(Regulations)
30 Jun	▸ Identification and documentation of US status for pre-existing accounts (above $50k de minimis account but <$1 million) ▸ Conversion of limited FFIs to participating FFI status
TBD	▸ FATCA reporting for 2015 (IGA)

2017

1 Jan	▸ FATCA withholding on gross proceeds ▸ FATCA withholding based on foreign passthru rules (once finalised by the IRS)
31 Mar	▸ FATCA reporting for 2016 (Regulations)
TBD	▸ FATCA reporting for 2016 (IGA)

Focus for next 6 months

- FATCA Impact Assessment & EAG Analysis
  - Legal entity analysis
  - Impact on customers
  - Impact on products and services
  - Impact of processes
  - Impact on IT systems

- FATCA Solution Design and Detailed Implementation Plan
  - Develop and finalize the solution design
  - Development of detailed business requirements (BRD)
  - Development of detailed implementation plan

Focus for next 6 months

- FATCA Strategy & Compliance
  - FATCA Policy Definition
  - Internal FATCA Responsibility Structure
  - Incorporate FATCA into existing control framework
  - Counterparty Review
  - FATCA Registration
- New Customer On-boarding (Individual & Entity Customers)
  - Operational Process changes
  - System Changes
- Training & Communication
  - Design and Produce Training Material
  - Define communication Strategy

US Treasury & IRS Update

- OECD
  - Joint Statement released on 29 November
  - 36 nations to support development of the single global standard for automatic exchange of information between tax authorities and common reporting standard
  - Draws on existing AEOI efforts including FATCA
  - Role of Global Forum to review and monitor its implementation and provide technical assistance
- US Treasury & IRS Update
  - Recent guidance modified final regulations
  - Updated regulations and forms expected soon

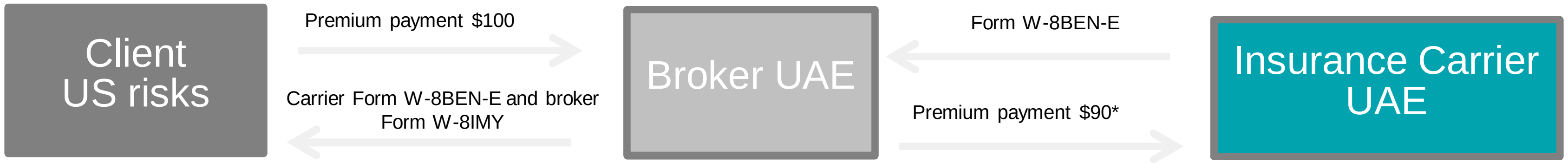
Matters Arising

Key challenges related to UAE Insurance Market

- How is the insurance sector responding to FATCA?
  - What is the current status of the insurance sector response to FATCA overall?
  - Are any consistent issues arising that require a targeted intervention by the Insurance Authority?
  - Will UAE insurers be ready in time?

Matters arising
Non-Life premiums and FATCA

- While FATCA primarily effects life insurance companies, it may have an effect on brokers, non-life insurance companies and reinsurance companies
- Premiums paid on US risks are US source withholdable payments under FATCA
- US source payments subject to 30% withholding unless properly documented
- Payments on “offshore obligations” not subject to withholding until 2017 unless made through an intermediary (such as a broker)



- Uncertain if next round of regulations will address this issue and provide relief
- Non-life insurance companies will still need to provide documentation of their chapter 4 status to banks and other counterparties they do business with

Matters Arising
Next steps

Phase 1 – Impact assessments

Analysis areas
- Legal entities
- Products
- Customers
- Business processes/ departments
- IT applications

Impact Ratings
- High
- Medium
- Low
- No Impact

Survey → Validation of results → Reporting

Survey questionnaire

Impact assessment

Phase 2 – Solution optimization and implementation

Validate impact assessment
- Validate impact assessment with published FATCA regulation
- Evaluate strategic options
- Develop FATCA roadmap

Overall Solutions design
- Document and build FATCA business requirements
- Evaluate solutions design options
- Design high level business and system solution s
- Develop governance structure
- Develop FATCA implementation plan

Implementation
- New accounts
- Pre existing accounts
- Reporting
- Withholding
- Pass-thru payments

Implementation project management, Quality assurance, Training , central co-ordination, communication and liaison supported by FATCA tools/enablers and subject matter resources

Matter Arising – Consortium Approach

Case Study

A GCC regulator instructed their insurance Industry to form a steering committee (Committee) in order to understand and seek to address the impact of compliance with FATCA

In view of this objective, the Committee has asked EY to conduct an assessment on:

- The readiness of selected insurance companies, and
- Highlight any improvements required from the companies in order to comply with the requirements of FATCA

The assessment includes:

- Review and diagnosis of the impact of FATCA on customers, products, processes, counterparties, IT systems and related entities.
- Gap analysis of FATCA business requirements against current business state, and assessment of the level of effort to achieve the required change.
- Classification of entities as High, Medium or Low impact, based on their nature of business and current state.
- Recommendations and implementation priorities in FATCA compliance.
- Next steps towards FATCA compliance.

Matters Arising – Consortium Benefits
Benefits of an industry level impact assessment

Quick	Firms will be able to mobilize quickly, identify key issues and focus their implementation on critical path activities
Comprehensive	A centralized collective response avoiding the potential fragmentation arising from individual firms' local initiatives
Consistent	A single method, approach and vocabulary for progressing and monitoring FATCA at a local and sector level
Cost effective	Economies arising from engaging the sector collectively

Q & A
Panel discussion

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